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MAILED
MAY 12 2011
OFFICE OF PETITIONS

COPAN SYSTEMS, INC.
1900 PIKE ROAD
LONGMONT, CO 80501

In re Patent of Guha et al.	:	
Patent No. 7,210,004	:	
Issue Date: April 24, 2007	:	Letter
Application No. 11/108,077	:	
Filing Date: April 14, 2005	:	
Attorney Docket No. 100112-001021US	:	

This is a notice regarding the request for acceptance of a fee deficiency submission under 37 CFR 1.28(c) filed March 3, 2011, by Joseph A. Twarowski..

The deficiency payment of $555 is hereby accepted.

The change of status to large entity has been entered and made of record.

The record fails to indicate Twarowski has been given a power of attorney or authorization of agent in this case. In addition, the recrod does not indicate a change of address has been submitted even though the address given in the instant request differs from the address of record. Although a copy of this decision is being mailed to the address on the petition, all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

cc: Silicon Graphics International Corp.
Attn: Legal Dept.
46600 Landing Parkway
Fremont, CA 94538

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20120307

DATE : March 07, 2012

TO SPE OF : ART UNIT 3769

SUBJECT : Request for Certificate of Correction on Patent No.: 7,842,030

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:

All approved

/Henry M. Johnson III/
Acting SPE 3769

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 7-13-11 **Paper No.:** _____

TO SPE OF : ART UNIT 2432

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/108336 Patent No.: 7788497

CofC mailroom date: 6-29-11

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

FOR IFW FILES: Check figs

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

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

FOR PAPER FILES:

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

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

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

Thank You For Your Assistance

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

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

Comments: spelling and grammar corrections

/Gilberto Barron Jr./ 2432
SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/108,400	04/18/2005	Lawrence C. Kay	68007-8001.US00	8458

79975 7590 11/17/2010
King & Spalding LLP
P.O. Box 889
Belmont, CA 94002-0889

EXAMINER
ABOAGYE, MICHAEL

ART UNIT	PAPER NUMBER
1793	

MAIL DATE	DELIVERY MODE
11/17/2010	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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November 17, 2010

KING & SPALDING LLP
P. O. BOX 889
BELMONT CA 94002-0889

In re Application of	:	
KAY, LAWRENCE C. et el	:	**DECISION ON PETITION**
Application No. 11/108,400	:	
Filed: 04/18/2005	:	
Attorney Docket No. 68007-8001.US00	:	

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) April 18, 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.

/Diane Terry/
Quality Control Specialist
Office of Data Management
Publications Branch

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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

MAY 23 2011

OFFICE OF PETITIONS

In re Application of	:	
John B. Simpson	:	
Application No. 11/108,887	:	DECISION ON PETITION
Filed: April 19, 2005	:	TO WITHDRAW
Attorney Docket No.: 34668-501008US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 28, 2011.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request is filed by Sean M. Coughlin on behalf of all the practitioners of record.

The Office no longer accepts an address change to the new practitioner identified in the request, absent the filing of a power of attorney to the new representative. The Office will, however, change the correspondence address of record to the most current address provided for (1) the intervening assignee of the entire interest or (2) the first named inventor.

The request to withdraw from record cannot be approved at this time, since the correspondence address provided is not the intervening assignee of the entire interest or the first named inventor.

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

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-3210. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Sean M. Coughlin
Mintz Levin Cohn Ferris Glovsky and Popeo, P.C.
3580 Carmel Mountain Road, Suite 300
San Diego, CA 92130-6768

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

MAILED

SEP 21 2010

OFFICE OF PETITIONS

In re Application :
Hinds :
Application No. 11/109,023 : PATENT TERM ADJUSTMENT
Filing or 371(c) Date: April 14, 2005 :
Dkt. No.: 16514US01 :

This is in response to the application for patent term adjustment under 37 CFR 1.705(b), filed September 1, 2010.

Applicant submits that the correct patent term adjustment to be indicated on the patent is 1555 days, not 964 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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DEC 13 2010

PCT LEGAL ADMINISTRATION

GANZ LAW, P.C.
P O BOX 2200
HILLSBORO OR 97123

In re Application of:
D'AMELIO, Frank, et al.
U.S. Application No.: 11/109,024
Filing Date: April 18, 2005
Attorney Docket No.: ACMI-2.001.US
For: REMOVABLE OPTICAL ASSEMBLY FOR A MEDICAL INSTRUMENT

DECISION ON PETITION
(37 CFR 1.78(a)(3))

This is a decision on the "Petition Under 37 CFR 1.78(a)(3) and (6)" filed December 01, 2010. Applicants have paid the required surcharge.

The petition is **GRANTED**.

37 CFR 1.78(a)(3) applies where an applicant seeks to add a delayed claim of benefit under 35 U.S.C. 120 and 365(c) to a prior-filed international application designating the United States; 37 CFR 1.78(a)(6) applies where an applicant seeks to add a delayed claim of priority to a prior-filed U.S. provisional application. Applicants here are seeking to add priority claims to prior-filed international application PCT/US03/32975 and prior-filed U.S. provisional application 60/419,544. Accordingly, the present petition is properly considered under both 37 CFR 1.78(a)(3) and (a)(6).

A petition for acceptance of a delayed claim for priority under 37 CFR 1.78(a)(3) and 1.78(a)(6) is only applicable in 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). The present non-provisional application was filed after November 29, 2000, and priority claims directed to the prior-filed applications (in an acceptable form) was submitted after expiration of the periods specified in 37 CFR 1.78(a)(2)(ii) and 1.78(a)(5)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3) and 1.78(a)(6).

A grantable petition under 37 CFR 1.78(a)(3) and 1.78(a)(6) must include the following:

(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 present petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) and (a)(6) in that: (1) proper references to the prior-filed international and provisional application have been included in the amendment to the first sentence of the specification filed December 01, 2010, as provided by 37 CFR 1.78(a)(2)(iii) and (a)(5)(i); (2) applicant has submitted payment of the required surcharge; and (3) the petition includes a proper statement of unintentional delay. Accordingly, having found that the petition for acceptance of the unintentionally delayed claims for the benefit of priority under 35 U.S.C. 120 and 119(e) to the prior filed applications satisfies the conditions of 37 CFR 1.78(a)(3) and (a)(6), the petition is granted.

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

A corrected Filing Receipt that includes the priority claims directed to the prior-filed international and U.S. provisional applications accompanies this decision on petition.

Any questions concerning this decision may be directed to the undersigned. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center Art Unit 3739 for appropriate consideration by the examiner of applicants' entitlement to claim benefit of priority under 35 U.S.C. 120 and 119(e) to the prior-filed international and provisional applications.

/RichardMRoss/

Richard M. Ross
Attorney Advisor
Office of PCT Legal Administration
(571) 272-3296

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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INTERNATIONAL CORP (BLF)
c/o BIGGERS & OHANIAN, LLP
P.O. BOX 1469
AUSTIN TX 78767-1469

MAILED

FEB 01 2011

OFFICE OF PETITIONS

In re Application of	:	
Shane Bradley Veeden	:	
Application No. 11/109,035	:	DECISION ON PETITION
Filed: April 19, 2005	:	
Attorney Docket No. AUS920050021US1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 25, 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 April 28, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on July 29, 2009. A Notice of Abandonment was mailed on November 25, 2009.

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

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

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

This application is being referred to Technology Center AU 2168 for appropriate action by the Examiner in the normal course of business on the reply received November 25, 2009.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Edward J. Lenart
515 Congress Avenue
Suite 1400
Austin, TX 78701

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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HAYNES AND BOONE, LLP
IP Section
2323 Victory Avenue
Suite 700
Dallas, TX 75219

In re Patent of Mrochen et al.	:	
Patent No. 7,544,194	:	
Issue Date: June 9, 2009	:	Letter
Application No. 11/109,180	:	
Filing Date: April 19, 2005	:	
Attorney Docket No. 31567.8	:	

This is a letter responding to the paper filed September 2, 2010, which is being treated as a request under 37 CFR 3.81 to accept the correction of the assignee data on the front page of the patent.

The request under 37 CFR 3.81 is **GRANTED**.

37 CFR 3.81(b) reads:

> 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.

In other words, the request under 37 CFR 3.81(b) will be granted when:

(1) a request under 37 CFR 3.81 and the fee set forth in 37 CFR 1.17(i) are filed,
(2) the assignment was submitted for recordation prior to issuance of the patent, and
(3) a request for a certificate of correction and the fee set forth in 37 CFR 1.20(a) are submitted.

Patentees have met the requirements set forth above. Therefore, the request is granted.

The required fee of $130 has been charged to Deposit Account No. 08-1394.

The Certificates of Correction Branch will be informed of the instant decision and will issue the requested certificate of correction in due course.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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HICKMAN PALERMO TRUONG & BECKER, LLP
2055 GATEWAY PLACE
SUITE 550
SAN JOSE, CA 95110

Mail Date: 08/06/2010

Applicant	: Sunil K. Srivastava	: DECISION ON REQUEST FOR
Patent Number	: 7660983	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/109,211	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/18/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1332** 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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Paper No.

DORSEY & WHITNEY LLP -
NEW YORK
ATTENTION: INTELLECTUAL
PROPERTY - PATENT DOCKET
51 WEST 52ND STREET
NEW YORK NY 10019-6119

MAILED
AUG 15 2011
OFFICE OF PETITIONS

In re Application of	:	
Rusinek et al.	:	
Application No. 11/109,340	:	LETTER REGARDING
Filed: April 19, 2005	:	PATENT TERM ADJUSTMENT
Atty Docket No. 186559/US -	:	
475396-00134	:	

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)," filed April 12, 2011. Applicant requests that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from zero (0) days to nine hundred ten (910) days.

On April 4, 2011, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 0 days. On April 12, 2011, applicant timely[1] submitted the instant application for patent term adjustment.

However, prior to a decision on the application for patent term adjustment being rendered, on June 30, 2011, the Office withdrew the application from issue.

In view thereof, this decision is being **dismissed as premature**.

A new determination of patent term adjustment will accompany any new Notice of Allowance and will include any further adjustments

[1] PALM records indicate that the Issue Fee payment was received in the Office on October 14, 2005.

or reductions accrued to date. Applicant must submit a timely application for patent term adjustment in response to any new Notice of Allowance. An application for patent term adjustment under 37 CFR 1.705(b) is properly filed after the mailing of the Notice of Allowance on which the application issues and prior to payment of the issue fee (or a request for reapplication of the issue fee) in response to that Notice. A copy of this decision should accompany the application for patent term adjustment, along with a request to apply the fee set forth in 37 CFR 1.18(e) paid on April 12, 2011.

Technology Center AU 3737 has been advised of this decision. The application is, thereby, forwarded to the examiner for further action consistent with the Notice of Withdrawal from Issue under 37 CFR 1.313 mailed June 30, 2011.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11-29-10

TO SPE OF : ART UNIT 3732

SUBJECT : Request for Certificate of Correction for Appl. No.: 11109424 Patent No.: 7780449

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: _____

Cris F Rodriguez — SPE

3732 — Art Unit

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ALSTON & BIRD LLP
SYNGENTA
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE NC 28280-4000

MAILED

AUG 16 2010

OFFICE OF PETITIONS

In re Application of	:	
Michael L. Nuccio et al.	:	
Application No. 11/109,594	:	DECISION ON
Filed: April 19, 2005	:	PETITION TO WITHDRAW
Attorney Docket No. 052508/343171 (70369USNP)	:	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 **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 R. Flynt Strean on behalf of all attorneys/agents associated with customer 00826. All attorneys/agents associated with customer number 00826 have been withdrawn.

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

The correspondence address has been changed and is copied below.

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

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Syngenta Biotechnology, Inc.
P.O. Box 12257
Research Triangle Park, NC 27709-2257

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
11/109,594	04/19/2005	Michael L. Nuccio	052508/343171 (70369USNP)

CONFIRMATION NO. 2400

POWER OF ATTORNEY NOTICE

OC000000043070949

74711
ALSTON & BIRD LLP
SYNGENTA
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

Date Mailed: 08/16/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/19/2010.

- 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.

/kainabinet/

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

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MYERS BIGEL SIBLEY & SAJOVEC, PA
P.O. BOX 37428
RALEIGH NC 27627

MAILED

JAN 23 2012

OFFICE OF PETITIONS

In re Application of
Michael L. Nuccio et al.
Application No. 11/109,594
Filed: April 19, 2005
Attorney Docket No. 9207-25

: DECISION ON APPLICATION
:FOR PATENT TERM ADJUSTMENT

This is a decision on the "REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT" filed November 2, 2011. Applicants request that the patent term adjustment at the time of the mailing of the Notice of Allowance be corrected from 169 days to 513 days.

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

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is TWO HUNDRED FORTY-THREE (243) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On August 4, 2011, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 169 days. The instant application for patent term adjustment was timely filed[1] on or before payment of the issue fee.

With respect to the patent term adjustment at the time of the mailing of the notice of allowance, applicants acknowledge the period of adjustment of 599 days for Office delay pursuant to 37 CFR 1.702(a)(1) and argue however that the calculation of 344 day applicant delay is in error, as the record shows that a timely response, without extension, was filed in reply to each of the actions and responses for the period of time from June 8, 2005 to August 16, 2006 and thus the period of 344 days should be removed.

Specifically, Applicants received a NOTICE TO COMPLY WITH REQUIREMENTS FOR PATENT APPLICATIONS CONTAINING NUCLEOTIDE SEQUENCE AND/OR AMINO ACID SEQUENCE DISCLOSURES, which was mailed on October 7, 2005. The due date for response to this Notice was stated to be two months, which was December 7,

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

2005. Applicants filed a response pursuant to this Notice on November 17, 2005, without extension.

Applicants received a NOTICE TO COMPLY WITH REQUIREMENTS FOR PATENT APPLICATIONS CONTAINING NUCLEOTIDE SEQUENCE AND/OR AMINO ACID SEQUENCE DISCLOSURES, which was mailed on February 10, 2006. The due date for response to this Notice was stated to be two months, which was April 10, 2006. Applicants filed a response pursuant to this Notice on April 3, 2006, without extension.

Applicants received a NOTICE TO COMPLY WITH REQUIREMENTS FOR PATENT APPLICATIONS CONTAINING NUCLEOTIDE SEQUENCE AND/OR AMINO ACID SEQUENCE DISCLOSURES, which was mailed on April 18, 2006. The due date for response to this Notice was stated to be two months, which was June 18, 2006. Applicants filed a response pursuant to this Notice on June 19, 2006, without extension.

Applicants received a NOTICE TO COMPLY WITH REQUIREMENTS FOR PATENT APPLICATIONS CONTAINING NUCLEOTIDE SEQUENCE AND/OR AMINO ACID SEQUENCE DISCLOSURES, which was mailed on July 18, 2006. The due date for response to this Notice was stated to be two months, which was September 18, 2006. Applicants filed a response pursuant to this Notice on August 16, 2006, without extension

Applicant's arguments have been considered but not found to be totally persuasive.

It is undisputed that in response to the October 7, 2005 Notice, a reply was filed on November 21, 2005[2] however, that reply had an omission that was corrected on August 18, 2006. 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 by 270 days for the period November 22, 2005 to August 16, 2006, not 344 days as calculated by the Office and not 0 days as calculated by Applicant.

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

[2]While applicants begin the calculation for PTO delay on the certificate of mail date, November 17, 2005, applicants are reminded that the response was actually received on November 21, 2005 and that they are not entitled to the calculation based on the certificate of mail date.

patent term adjustment to be indicated on the patent in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

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

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of Revised PALM Screen

Best Available Copy

Patent Term Adjustments

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

Application Number*: 11109594 Search | Explanation of PTA Calculation | Explanation of PTE Calculation

PTA Calculations for Application: 11109594

Application Filing Date	04/19/2005	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	599
A Delays	599	PTO Manual Adjustment	74
B Delays	0	Applicant Delay (APPL)	430
C Delays	0	Total PTA (days)	243

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
138	01/19/2012		P028	Adjustment of PTA Calculation by PTO		270	0
137	01/19/2012		P028	Adjustment of PTA Calculation by PTO	344		0
130	08/04/2011	04/08/2011	MN/=.	Mail Notice of Allowance	118		119
129	08/03/2011		OAR	Office Action Review			0
128	08/03/2011		OAR	Office Action Review			0
127	08/03/2011		DVER	Document Verification			0
126	08/03/2011		IREV	Issue Revision Completed			0
125	08/03/2011		N/=.	Notice of Allowance Data Verification Completed			0
124	08/01/2011		EX.R	Reasons for Allowance			0
123	08/01/2011		CNTA	Allowability Notice			0
118	12/13/2010		ABN9	Disposal for a RCE / CPA / R129			0
122	12/08/2010		IDSC	Information Disclosure Statement considered			0
121	12/08/2010		RCAP	Reference capture on IDS			0
120	12/08/2010		M844	Information Disclosure Statement (IDS) Filed			0
119	12/08/2010		RCEX	Request for Continued Examination (RCE)			0
117	12/08/2010		WIDS	Information Disclosure Statement (IDS) Filed			0
116	12/08/2010		BRCE	Workflow - Request for RCE - Begin			0
115	11/11/2010		FIDC	Finished Initial Data Capture			0
114	10/13/2010		CRFT	Sequence Forwarded to Pubs on Tape			0
112	09/29/2010		R1021	Receipt into Pubs			0
111	09/29/2010		R1021	Receipt into Pubs			0
110	09/29/2010		R1021	Receipt into Pubs			0
113	09/27/2010		EIDC	Export to Initial Data Capture			0
109	09/21/2010		MN/=.	Mail Notice of Allowance			0
108	09/17/2010		IREV	Issue Revision Completed			0
107	09/17/2010		DVER	Document Verification			0
106	09/17/2010		N/=.	Notice of Allowance Data Verification Completed			0
105	09/17/2010		DOCK	Case Docketed to Examiner in GAU			0
104	09/07/2010		CNTA	Allowability Notice			0
101	09/02/2010		PA..	Change in Power of Attorney (May Include Associate POA)			0
99	08/31/2010		FWDX	Date Forwarded to Examiner			0
97	08/31/2010		C.AD	Correspondence Address Change			0
98	08/27/2010		A.NE	Amendment after Final Rejection			0
96	08/16/2010		MP033	Mail-Petition Decision - Granted			0
95	08/16/2010		P033	Petition Decision - Granted			0
94	08/16/2010		C.AD	Correspondence Address Change			0
93	07/19/2010		PET.	Petition Entered			0
92	05/27/2010		MCTFR	Mail Final Rejection (PTOL - 326)			0
91	05/27/2010		CTFR	Final Rejection			0
90	03/23/2010		FWDX	Date Forwarded to Examiner			0
88	03/15/2010		CRFE	CRF Is Good Technically / Entered into Database			0
89	03/02/2010		A...	Response after Non-Final Action			0
87	12/02/2009	11/22/2009	MCTNF	Mail Non-Final Rejection	10		84
86	12/02/2009		CTNF	Non-Final Rejection			0
85	09/10/2009		FWDX	Date Forwarded to Examiner			0
84	07/22/2009		A...	Response after Non-Final Action			0
83	04/28/2009		MCTNF	Mail Non-Final Rejection			0
82	04/27/2009		CTNF	Non-Final Rejection			0
79	02/07/2009		FWDX	Date Forwarded to Examiner			0
77	02/07/2009		FWDX	Date Forwarded to Examiner			0
75	02/07/2009		ABN9	Disposal for a RCE / CPA / R129			0
74	02/02/2009		PA..	Change in Power of Attorney (May Include Associate POA)			0
81	01/30/2009		IDSC	Information Disclosure Statement considered			0
80	01/30/2009		M844	Information Disclosure Statement (IDS) Filed			0
78	01/30/2009		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE			0

76	01/30/2009		RCEX	Request for Continued Examination (RCE)			0
73	01/30/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
72	01/30/2009		BRCE	Workflow - Request for RCE - Begin			0
71	10/30/2008		MCTFR	Mail Final Rejection (PTOL - 326)			0
70	10/27/2008		CTFR	Final Rejection			0
68	08/20/2008		FWDX	Date Forwarded to Examiner			0
65	08/20/2008		C.AD	Correspondence Address Change			0
69	07/18/2008		C614	New or Additional Drawing Filed			0
67	07/18/2008	04/23/2008	A...	Response after Non-Final Action		86	63
66	07/18/2008		XT/G	Request for Extension of Time - Granted			0
64	01/24/2008		CRFE	CRF Is Good Technically / Entered into Database			0
63	01/23/2008		MCTNF	Mail Non-Final Rejection			0
62	01/22/2008		CTNF	Non-Final Rejection			0
57	10/31/2007		FWDX	Date Forwarded to Examiner			0
56	10/25/2007		ELC.	Response to Election / Restriction Filed			0
55	10/03/2007	06/19/2006	MCTRS	Mail Restriction Requirement	471		0.5
54	09/28/2007		CTRS	Restriction/Election Requirement			0
53	08/27/2007		DOCK	Case Docketed to Examiner in GAU			0
51	01/04/2007		PG-ISSUE	PG-Pub Issue Notification			0
61	12/18/2006		IDSC	Information Disclosure Statement considered			0
52.7	12/18/2006		M844	Information Disclosure Statement (IDS) Filed			0
52	12/18/2006		WIDS	Information Disclosure Statement (IDS) Filed			0
48	10/05/2006		TSSCOMP	IFW TSS Processing by Tech Center Complete			0
60	10/04/2006		IDSC	Information Disclosure Statement considered			0
50	10/04/2006		RCAP	Reference capture on IDS			0
49.7	10/04/2006		M844	Information Disclosure Statement (IDS) Filed			0
49	10/04/2006		WIDS	Information Disclosure Statement (IDS) Filed			0
41	09/28/2006		WROIPE	Application Return from OIPE			0
40	09/28/2006		COMP	Application Is Now Complete			0
38	09/22/2006		W/OA	Pre-Exam Office Action Withdrawn			0
33	09/22/2006		COMP	Application Is Now Complete			0
37	09/21/2006		ROIPE	Application Return TO OIPE			0
36	09/21/2006		WROIPE	Application Return from OIPE			0
35	09/21/2006		ROIPE	Application Return TO OIPE			0
34	09/21/2006		OIPE	Application Dispatched from OIPE			0
30	08/28/2006		CRFE	CRF Is Good Technically / Entered into Database			0
47	08/21/2006		A.PE	Preliminary Amendment			0
46	08/18/2006		A.PE	Preliminary Amendment			0
32	08/18/2006	09/08/2005	ADDFLFEE	Additional Application Filing Fees		344	5
31	08/18/2006		CRFL	CRF Disk Has Been Received by Preexam / Group / PCT			0
42	08/04/2006		A.PE	Preliminary Amendment			0
29	07/18/2006		SQPR	SEQUENCE ERRORS			0
26	07/03/2006		CRFD	CRF Is Flawed Technically / Not Entered into Database			0
45	06/22/2006		A.PE	Preliminary Amendment			0
28	06/22/2006		ADDFLFEE	Additional Application Filing Fees			0
27	06/22/2006		CRFL	CRF Disk Has Been Received by Preexam / Group / PCT			0
25	04/18/2006		SQPR	SEQUENCE ERRORS			0
21	04/12/2006		CRFD	CRF Is Flawed Technically / Not Entered into Database			0
44	04/05/2006		A.PE	Preliminary Amendment			0
23	04/05/2006		ADDFLFEE	Additional Application Filing Fees			0
22	04/05/2006		CRFL	CRF Disk Has Been Received by Preexam / Group / PCT			0
20	02/10/2006		SQPR	SEQUENCE ERRORS			0
13	02/07/2006		CRFN	CRF Does Not Match Application Specification -- Applicant Must Correct			0
18	11/21/2005		CRFL	CRF Disk Has Been Received by Preexam / Group / PCT			0
16	11/21/2005		ADDFLFEE	Additional Application Filing Fees			0
15	11/21/2005		CRFL	CRF Disk Has Been Received by Preexam / Group / PCT			0
12	10/07/2005		SQPR	SEQUENCE ERRORS			0
43	08/04/2005		C614	New or Additional Drawing Filed			0
11	08/02/2005		CORRDRW	Applicant has submitted new drawings to correct Corrected Papers problems			0
9	08/02/2005		ADDFLFEE	Additional Application Filing Fees			0
8	08/02/2005		SEQLIST	A set of symbols and procedures, provided to the PTO on a set of computer listings, that describe in			0
7	08/02/2005		OATHDECL	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic			0
5	06/08/2005		INCD	Notice Mailed--Application Incomplete--Filing Date Assigned			0
3	05/26/2005		L194	Cleared by OIPE CSR			0
2	05/23/2005		SCAN	IFW Scan & PACR Auto Security Review			0
39	04/19/2005		CLAIM	Claim Preliminary Amendment			0
1	04/19/2005		IEXX	Initial Exam Team nn			0
0.5	04/19/2005		EFILE	Filing date			0

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EDWARD HOWLE
KAYE PRODUCTS
535 DIMMOCKS MILL ROAD
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MAILED

FEB 22 2012

OFFICE OF PETITIONS

In re Patent No. 7,294,094 :
Issue Date: November 13, 2007 :
Application No. 11/109,601 : ON PETITION
Filed: April 19, 2005 :
Patentee: Edward Samuel Howle :

This is a decision on the petition under 37 CFR 1.378(c), filed January 9, 2012, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **DISMISSED**.

This patent issued on November 13, 2007. Accordingly, this patent expired on November 13, 2011 for failure to pay the first maintenance fee. Since the petition was submitted within twenty-four months after the six –month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

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

The petition lacks item (1) above. In this regard, the petition is not signed, as required by 37 CFR 1.378(d), by an attorney or agent registered to practice before the Patent and Trademark Office, the patentee, or the assignee or other party in interest as established by 37 CFR 3.73(b).[1] Consequently, the petition is considered not to contain a proper statement of unintentional delay and cannot be accepted.

If reconsideration of this decision is desired, a properly signed 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

[1]37 CFR 3.73(b) provides that: (1) when an assignee seeks to take action in a matter before the Office, the assignee must establish its ownership of the property to the satisfaction of the Commissioner; (2) ownership is established by submitting to the Office, in the Office file related to the matter in which action is sought to be taken, documentary evidence of a chain of title from the original owner to the assignee (e.g., copy of an executed assignment submitted for recording) or by specifying (e.g., reel and frame number) where such evidence is recorded in the Office; (3) the submission establishing ownership must be signed by a party authorized to act on behalf of the assignee; and (4) documents submitted to establish ownership may be required to be recorded as a condition to permitting the assignee to take action in a matter pending before the Office.

this 2-month time limit can be granted under 37 CFR 1.136(a) or (b). **Any such petition for reconsideration must be accompanied by the petition fee of $400 as set forth in 37 CFR 1.17(f).** The petition for reconsideration must also include any lacking item(s) noted above, since, after a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Director. For applicant's convenience a Statement under 37 CFR 3.73(b) is attached.
Further correspondence with respect to this matter should be delivered through one of the following mediums:

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

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

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

By Internet: EFS-Web[2]

If petitioner does not wish to pursue reinstatement of this expired patent, petitioner may request a refund of the $565 maintenance fee and the $1,640 surcharge 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.

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

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Attachment: Statement Under 37 CFR 3.73(b)

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[2] 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

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

Robert L. Gropper
8416 Island Drive South
Seattle WA 98118

MAILED
MAR 14 2011
OFFICE OF PETITIONS

In re Application of :
Gropper : DECISION ON PETITION
Application No. 11/109,974 :
Filed: April 19, 2005 :
Atty. Dkt. No.: 1658-001-05 :

This decision is in response to the "PETITION TO REVIVE" filed February 14, 2011. This matter is being treated under 37 CFR 1.181 as a petition to withdraw the holding of abandonment, no fee due, as the instant petition was not accompanied by the petition to revive filing fee.

The petition under 37 CFR 1.181 to withdraw the holding of abandonment is hereby **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from 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 1.181." This is not a final agency decision.

The above-identified application was held abandoned March 30, 2009 for failure to timely submit a proper reply to the non-final Office action mailed December 29, 2008. The non-final Office action set a three month shortened statutory period of time for reply. Notice of Abandonment was mailed August 19, 2009.

In accordance with 37 CFR 1.181(f), any petition 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.

Accordingly, the instant petition is hereby DISMISSED AS UNTIMELY.

Further, 37 CFR 1.8(b)(3) states:

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

§ 1.957(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.

The instant petition fails to satisfy 37 CFR 1.8(b)(1) and (3). The petition has not been promptly submitted, as set forth herein. Further, the petition lacks a statement from the individual who signed the certificate of mailing attesting to the timely submission of the reply.

ALTERNATE VENUE

Petitioners may wish to consider filing a petition stating that the delay was unintentional. Petitioners' attention is directed to 37 CFR 1.137(b) which provides 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". An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the required petition fee and reply.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the 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 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 facsimile: (571) 273-8300

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

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

Enc.

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BLACK LOWE & GRAHAM, PLLC
701 FIFTH AVENUE
SUITE 4800
SEATTLE WA 98104

MAILED

JUN 13 2011

OFFICE OF PETITIONS

In re Application of
Gropper
Application No. 11/109,974
Filed: April 19, 2005
Atty. Dkt. No.: GROP-1-1002 (1658-001-05)

: DECISION ON PETITION

This decision is in response to the petition to withdraw the holding of abandonment under 37 CFR 1.181 filed May 16, 2011.

The application was held abandoned for failure to timely submit a proper reply to the non-final Office action mailed May 29, 2008. Notice of Abandonment was mailed August 19, 2009.

Petitioner asserts that a reply was timely filed June 27, 2009.

The reply filed July 1, 2009, bearing a certificate of mailing date of June 27, 2009, has been located in the official application file.

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

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

The application file is being forwarded to Group Art Unit 3624 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

OPTICUS IP LAW, PLLC
7791 ALISTER MACKENZIE DRIVE
SARASOTA, FL 34240

MAILED
JAN 25 2011
OFFICE OF PETITIONS

In re Application of
Jonathan Young
Application No. 11/110,031
Filed: April 20, 2005
Attorney Docket No. 002-05US1

DECISION ON PETITION

This is a decision on the petition, filed December 20, 2010, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the non-final Office action mailed April 9, 2010, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on October 29, 2010.

Petitioner asserts that the Office action dated April 9, 2010 was not received.

A review of the written record indicates an irregularity in the mailing of the Office action of April 9, 2010. In this regard, the Office action in question was mailed to the wrong address. Office records indicate that there was a power of attorney and request to change of address filed December 15, 2010 was never processed. The request indicated that the new correspondence address should be mailed to Opticus IP Law, PLLC at 7791 Alister MacKenzie Drive, Sarasota, FL 34240 by way of Customer Number 53590. Accordingly, as the Office action and the Notice of Abandonment were both mailed to the wrong address, the Notice of Abandonment mailed October 29, 2010 is hereby **vacated** and **the holding of abandonment withdrawn**.

The Power of attorney filed December 15, 2008 has been processing and the address has been updated to reflect the acceptance of the new power of attorney and change of correspondence address.

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

This application is being referred to the Technology Center AU 2437 technical support staff for re-mailing the non-final Office action of April 9, 2010. The period for reply will be reset to expire three (3) months from the date the Notice is re-mailed.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : Oct. 23, 2009

TO SPE OF : ART UNIT 1638

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/110082 Patent No.: 7538260

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Magdalene Talley

Certificates of Correction Branch

571-272-0423

Thank You For Your Assistance

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

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

Comments:

/Anne Marie Grunberg/ 1638

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MASCHOFF GILMORE & ISRAELSEN
1441 W UTE BLVD SUITE 100
PARK CITY UT 84098-7633

MAILED
DEC 19 2011
OFFICE OF PETITIONS

In re Application of	:	
Lucy G. Hosking	:	DECISION ON PETITION
Application No. 11/110,112	:	
Filed: April 20, 2005	:	
Attorney Docket No. F1002.11503US01	:	

This is a decision on the petition filed November 23, 2011, pursuant to 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to timely file an Appeal Brief in response to the "Notice of Panel Decision from Pre-Appeal Brief Review", mailed January 20, 2011. This Notice set an extendable period for reply of one month in which the file an Appeal Brief. No Appeal Brief having been filed, the application became abandoned on February 21, 2011. A Notice of Abandonment was mailed on October 18, 2011.

With the instant petition, petitioner paid the petition fee, made the proper statement of unintentional delay, and filed the required reply in the form of an Appeal Brief.

In addition to paying the fee for the Appeal Brief, Applicant also paid the fee for a Notice of Appeal. However, Applicant previously paid the Notice of Appeal fee one year prior on November 23, 2010. As such, the $620 submitted for the instant Notice of Appeal has been refunded

The application is being forwarded to Group Art Unit 2894 for consideration of the Appeal Brief filed November 23, 2011.

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

Cliff Congo
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)
7329077	2008-02-12	11110168	2005-04-20	53007

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	/David A. W. Curtis/	Date (YYYY-MM-DD)	2012-03-16
Name	David A.W. Curtis		

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.	7329077	:
Issue Date:	February 12,2008	
Application No.	11110168	:DECISION GRANTING PETITION
Filed:	April 20,2005	:UNDER 37 CFR 1.378(c)
Attorney Docket No.	53007	:

This is a decision on the electronic petition, filed March 16,2012 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of March 16,2012 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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PATENT, COPYRIGHT & TRADEMARK LAW GROUP
4199 KINROSS LAKES PARKWAY
SUITE 275
RICHFIELD OH 44286

MAILED
MAY 17 2011
OFFICE OF PETITIONS

In re Patent No. 7,117,859	:	
Issued: October 10, 2006	:	
Application No. 11/110,195	:	ON PETITION
Filed: April 21, 2005	:	
Attorney Docket No. 1556	:	

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

The petition is **GRANTED**.

This patent expired on October 11, 2010 for failure to pay the three and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

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

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

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

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ADELI & TOLLEN, LLP
11940 San Vicente Blvd., Suite 100
LOS ANGELES CA 90049

MAILED
MAR 14 2011
OFFICE OF PETITIONS

In re Application of:	:	
GALLAGHER, et al.	:	
Application No.: 11/110,222	:	DECISION GRANTING
Filed: April 20, 2005	:	PETITION
Attorney Docket No.: KNTO.P0020	:	

This is a decision on the Petition under 37 CFR § 1.10(e), filed March 2, 2011, which has been treated as a Petition under 37 CFR 1.181 requesting that the accompanied copy of the Rescission of Previous Nonpublication Request be accepted as a replacement for the missing original Rescission of Previous Nonpublication Request previously mailed on June 2, 2005, via the "Express Mail" mailing provisions set forth under 37 CFR 1.10.

The petition is **GRANTED**.

The evidence submitted by applicants is sufficient to establish applicants' timely filing of a Rescission of Previous Nonpublication Request on June 2, 2005, via the "Express Mail" mailing provisions set forth under 37 CFR 1.10. The accompanied copy of the Customer Receipt of "Express Mail" mailing label "EV 469986527 US" sufficiently shows that the original "Express Mail" label identified a "Date In:" of June 2, 2005. The copy of the Rescission of Previous Nonpublication Request also shows that the original Rescission of Previous Nonpublication request included an "EXPRESS MAIL STATEMENT" that indentified the above "Express Mail" label "EV 469986527 US", a June 2, 2005 Date of Deposit, and was signed by the person who mailed the original Rescission of Previous Nonpublication Request.

This application is being referred to the Office of Data Management (ODM) for processing of the Rescission of Previous Nonpublication Request with a filing date of June 2, 2005, or other appropriate action.

Telephone inquiries relating to this decision should be directed Brian W. Brown at (571) 272-5338.

Telephone inquiries related to ODM should be directed to their hotline at (571) 272-4100.

Brian W. Brown
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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KILPATRICK STOCKTON LLP -
41305
CHARLES CALKINS
1001 WEST FOURTH STREET
WINSTON-SALEM NC 27101

MAILED

SEP 07 2010

OFFICE OF PETITIONS

In re Application of :
Mjalli et al. :
Application No. 11/110,499 :
Filed: April 20, 2005 :
Attorney Docket No. TTP 2004-02-US-A :
Title: SUBSTITUTED HETEROARYL DERIVATIVES, COMPOSITIONS, AND METHODS OF USE :

ON APPLICATION FOR PATENT TERM ADJUSTMENT

This is in response to the "PETITION REGARDING PATENT TERM ADJUSTMENT (PTA) INDICATED IN NOTICE OF ALLOWANCE" filed August 4, 2010. This request is properly treated under 37 CFR 1.705(b). Applicants submit that the correct patent term adjustment to be indicated on the patent is six hundred seven (607) days, not two hundred nineteen (219) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

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

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

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for

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

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

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

---

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

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

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

Telephone inquiries specific to this matter should be directed to Petitions Attorney Charlema Grant at (571) 272-3215.

Anthony Knight
Director
Office of Petitions

---

reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

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INFINEUM USA L.P.
1900 E. LINDEN AVE.
P.O. BOX 710
LINDEN, NJ 07036

MAILED

SEP 30 2010

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Rinaldo Caprotti, et al. :
Application No.: 11/110,505 :
Filed: April 20, 2005 :
Attorney Docket No.: 99A003 :

This is a decision on the petition under 37 CFR 1.137(b), filed August 11, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The petition is not signed by a registered attorney or agent of record. However, in accordance with 37 CFR 1.34(a), the signature of Jacques B. Miles 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 application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of December 23, 2009. A Notice of Abandonment was mailed on August 6, 2010. On August 11, 2010, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE), including the fee of $810; (2) the petition fee of $1,620; and (3) an adequate statement of unintentional delay[1].

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

This application is being referred to Technology Center AU 1797 for processing of the RCE under 37 CFR 1.114 in the normal course of business.

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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Keohane & D'Alessandro
1881 Western Avenue
Suite 180
Albany NY 12203

MAILED
MAR 25 2011
OFFICE OF PETITIONS

In re Application of :
Tara J. Valentin :
Application No. 11/111,063 : DECISION ON PETITION
Filed: April 21, 2005 :
Attorney Docket No. CAVO-0017-CIP :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 16, 2010, to revive the above-identified application.

The petition is **GRANTED**.

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

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a RCE (Request for Continued Examination, with the required fee of $405, (2) the petition fee of $810, and (3) a proper statement of unintentional delay. Accordingly, the RCE is accepted as being unintentionally delayed.

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

This application is being referred to Technology Center AU 3765 for appropriate action by the Examiner in the normal course of business on the reply received December 16, 2010.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

6-6-2011

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

Date Mailed :

Patent No.: 7,399,725 B2
Patent Issued : July 15, 2008
Inventor(s): Robert Lewis Clarke, et. al.
Application No: 11/111085

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 1.322or 1.323.

The alleged error on the title page item [75] inventor, cannot be added because this inventor is missing from the Oath /Declaration. This request needs a petition from the Petition's Office, and a fee of $130.00.

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

However, further consideration will be given upon receipt of a request for reconsideration directed to Decisions & Certificates of Correction Branch.

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

Martin Fessenmaier
Dish & Associates, PC
2603 main Street, Suite 1050
Irvine, CA 92614

ej

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NOV 09 2010
OFFICE OF PETITIONS

PRO-TECHTOR INTERNATIONAL SERVICES
20775 NORADA CT.
SARATOGA CA 95070

In re Application of	:	
Chishih CHU, et al		
Application No. 11/111,098	:	DECSION ON PETITION
Filed: April 20, 2005	:	
Attorney Docket No. 1121046	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 20, 2010, to revive the above-identified application.

The petition is **DISMISSED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, December 28, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on December 29, 2009.

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

With respect to item (2): A review of the record shows that the required petition fee payment of $1620, could not be charged to Deposit Account No. 16-2497, as authorized, because of insufficient funds. In this regard, the petition fee filed October 20, 2010, does not comply with 37 CFR 1.17(m) and the petition is considered to not be in compliance with 37 CFR 1.137(b). Accordingly, no consideration on the merits can be given until the required fee is remitted.

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.

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

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

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

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

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

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

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

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20775 NORADA CT.
SARATOGA CA 95070

MAILED
FEB 25 2011
OFFICE OF PETITIONS

In re Application of	:	
CHU, et al	:	
Application No. 11/111,098	:	DECISION ON PETITION
Filed: April 20, 2005	:	
Attorney Docket No. 1121046	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed January 4, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, December 28, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on March 29, 2010.

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

As authorized, the petition fee of $810 will be charged to petitioner's Deposit Account No. 16-2497.

In response to petitioner's statement regarding the power of attorney, petitioner has acted in a representative capacity under 37 CFR 1.34, which states:

"When 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."

However, the Power of Attorney filed January 4, 2011, has been made of record.

The Terminal Disclaimer filed with the petition is acknowledged.

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

This application is being referred to Technology Center AU 1641 for appropriate action by the Examiner in the normal course of business.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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HISCOCK & BARCLAY, LLP
2000 HSBC PLAZA
100 Chestnut Street
ROCHESTER, NY 14604-2404

Mail Date: 08/04/2010

Applicant	: Raymond E. Vankouwenberg	: DECISION ON REQUEST FOR
Patent Number	: 7640622	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/111,114	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/21/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1240** 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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Louis J. Wille
Bristol-Myers Squibb Company
Patent Department
PO Box 4000
Princeton NJ 08543-4000

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In re Patent No. 7,459,562	:
Borzilleri et al.	: DECISION UPON REMAND AND
Issue Date: December 2, 2008	: RECONSIDERATION OF
Application No. 11/111,144	: PATENT TERM ADJUSTMENT
Filed: April 21, 2005	: AND NOTICE OF INTENT
Attorney Docket No. 10194 NP	: TO ISSUE CERTIFICATE OF
Title: Monocyclic Heterocycles	: CORRECTION
as Kinase Inhibitors	:

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

The patent term adjustment indicated on the above-identified patent has been recalculated as directed by the Court. The term of the above-identified patent is extended or adjusted by six hundred and sixteen (616) days.

The application is being forwarded to the Certificates Branch for issuance of a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by six hundred and sixteen (616) days.

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

/Kery A. Fries/

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

Enclosure: Copy of DRAFT Certificate of Correction
Copy of PTA adjustment

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,459,562 B2

DATED : **Dec. 2, 2008** **DRAFT**

INVENTOR(S) : Borzilleri 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 391 days

Delete the phrase "by 391 days" and insert – by 616 days--

Day : Monday
Date: 7/26/2010

PALM INTRANET

Time: 13:02:56

PTA Calculations for Application: 11/111144			
Application Filing Date:	04/21/2005	PTO Delay (PTO):	429
Issue Date of Patent:	12/02/2008	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	38
Post-Issue Petitions:	0	Total PTA (days):	616
PTO Delay Adjustment:	225		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
134	07/26/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	225		
127.5	11/12/2008	PTA 36 MONTHS			
127	12/02/2008	PATENT ISSUE DATE USED IN PTA CALCULATION			
126	11/07/2008	EXPORT TO FINAL DATA CAPTURE			
125	11/05/2008	FINISHED INITIAL DATA CAPTURE			
124	11/06/2008	DISPATCH TO FDC			
123	10/20/2008	APPLICATION IS CONSIDERED READY FOR ISSUE			
122	10/17/2008	ISSUE FEE PAYMENT VERIFIED			
121	10/17/2008	ISSUE FEE PAYMENT RECEIVED			
120	08/14/2008	EMAIL NOTIFICATION			
119	08/07/2008	MAIL EXAMINER'S AMENDMENT			
118	08/04/2008	EXAMINER'S AMENDMENT COMMUNICATION			
117	08/11/2008	EMAIL NOTIFICATION			
116	08/11/2008	MAIL RESPONSE TO 312 AMENDMENT (PTO-271)			
109	08/04/2008	RESPONSE TO AMENDMENT UNDER RULE 312			
108	07/28/2008	AMENDMENT AFTER NOTICE OF ALLOWANCE (RULE 312)		15	116
107	07/21/2008	EXPORT TO INITIAL DATA CAPTURE			
103	07/18/2008	MAIL NOTICE OF ALLOWANCE			
95	07/03/2008	ISSUE REVISION COMPLETED			
94	07/03/2008	DOCUMENT VERIFICATION			
93	07/03/2008	ALLOWED CASE RETURNED TO THE EXAMINER FOR CLERICAL PROCESSING			
92	07/03/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			

91	07/03/2008	CASE DOCKETED TO EXAMINER IN GAU			
90	07/03/2008	EXAMINER'S AMENDMENT COMMUNICATION			
89	07/03/2008	NOTICE OF ALLOWABILITY			
88	07/02/2008	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
87	06/26/2008	DATE FORWARDED TO EXAMINER			
86	06/03/2008	RESPONSE AFTER NON-FINAL ACTION			
85	04/23/2008	EMAIL NOTIFICATION			
84	04/23/2008	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
83	04/23/2008	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
82	04/15/2008	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
81	04/15/2008	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
80	01/10/2008	REFERENCE CAPTURE ON IDS			
79	01/10/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		23	59
78	03/04/2008	ELECTRONIC REVIEW			
77	03/03/2008	EMAIL NOTIFICATION			
76	03/03/2008	MAIL NON-FINAL REJECTION			
75	02/20/2008	NON-FINAL REJECTION			
69	01/10/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
61	01/10/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
60	01/10/2008	DATE FORWARDED TO EXAMINER			
59	12/18/2007	RESPONSE AFTER NON-FINAL ACTION			
58	11/14/2007	CASE DOCKETED TO EXAMINER IN GAU			
57	10/09/2007	CASE DOCKETED TO EXAMINER IN GAU			
56	09/20/2007	ELECTRONIC REVIEW			
55	09/19/2007	EMAIL NOTIFICATION			
54	09/19/2007	MAIL NON-FINAL REJECTION			
53	09/15/2007	NON-FINAL REJECTION			
52	05/19/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
51	07/31/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
50	10/23/2006	INFORMATION DISCLOSURE STATEMENT			

		CONSIDERED			
49	10/03/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
48	11/02/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
47	12/14/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
46	02/13/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
45	03/29/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
44	04/21/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
43	06/07/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
33	08/29/2007	DATE FORWARDED TO EXAMINER			
32	08/28/2007	RESPONSE TO ELECTION / RESTRICTION FILED			
31	08/24/2007	MAIL RESTRICTION REQUIREMENT	429		-1
30	08/21/2007	REQUIREMENT FOR RESTRICTION / ELECTION			
29	06/07/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
28	06/07/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
27	03/19/2007	CASE DOCKETED TO EXAMINER IN GAU			
26.7	10/23/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
26	10/23/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
25	07/31/2006	REFERENCE CAPTURE ON IDS			
24.7	07/31/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
24	07/31/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
23.7	05/19/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
23	05/19/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
22	04/21/2006	REFERENCE CAPTURE ON IDS			
21.7	04/21/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
21	04/21/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			

20	03/29/2006	REFERENCE CAPTURE ON IDS			
19.7	03/29/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
19	03/29/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
18.7	02/13/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
18	02/13/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
17	01/04/2006	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
16	12/14/2005	REFERENCE CAPTURE ON IDS			
15.7	12/14/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
15	12/14/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
14	01/04/2006	CASE DOCKETED TO EXAMINER IN GAU			
13	11/02/2005	REFERENCE CAPTURE ON IDS			
12.7	11/02/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
12	11/02/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
11.7	10/03/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
11	10/03/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
10	07/22/2005	APPLICATION DISPATCHED FROM OIPE			
9	07/22/2005	APPLICATION IS NOW COMPLETE			
8	07/11/2005	ADDITIONAL APPLICATION FILING FEES			
7	07/11/2005	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
6	06/03/2005	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
4	05/26/2005	CLEARED BY L&R (LARS)			
3	05/09/2005	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			
2	05/01/2005	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	04/21/2005	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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

In re Application of
Eric Wogsberg
Application No. 11/111,158
Filed: April 20, 2005
Attorney Docket No. JPTR 1004-1

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed October 11, 2011, which, for the reasons stated below, is being treated as a request for a three (3) month extension of time.

The request for a three (3) month extension of time is **GRANTED.**

The record shows that a non-final on April 11, 2011, which set a three (3) month shortened statutory period for reply. Accordingly, a reply was due on or before July 11, 2011, or on or before October 11, 2011 with the submission of an extension of time fee pursuant to the provisions of 37 CFR 1.136(a). Since petitioner may obtain an extension of time up to an including October 11, 2011, this case is not in fact abandoned. Accordingly, the filing of a petition to revive is inappropriate until the maximum extendable period for reply has expired.

In view of the above, the $1345 petition fee submitted will be applied towards the purchase of a three (3) month extension of time. However, the fee submitted with the petition is deficient. The balance of $415 will be charged to petitioner's deposit account.

Telephone inquiries concerning this decision may 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 Art Unit 2474 for consideration of the reply filed October 11, 2011 with this petition.

April M. Wise
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

JAMES D IVEY
3025 TOTTERDELL STREET
OAKLAND, CA 94611-1742

In re Application of	:	
Eric Wogsberg	:	
Application No. 11/111,159	:	ON PETITION
Filed: April 20, 2005	:	
Attorney Docket No. P-2307D2	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 20, 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 October 8, 2009, 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 January 9, 2010. A Notice of Abandonment was subsequently mailed on June 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 $405, (2) the petition fee of $810, and (3) an adequate statement of unintentional delay.

This application is being referred to Technology Center AU 2474 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

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In re Application of
Eric Wogsberg
Application No. 11/111,182
Filed: April 20, 2005
Attorney Docket No. P-2307D3

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 26, 2011 to revive the above-identified application.

There is no indication that the person signing the instant petition has power of attorney or authorization of agent to prosecute the above-identified application. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts. However, if petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted.

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

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, June 4, 2010, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on September 5, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $930 and (3) a proper statement of unintentional delay.

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

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

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

This application is being referred to Technology Center AU 2474 for appropriate action by the Examiner in the normal course of business on the reply received September 30, 2011.

April M. Wise
Petitions Examiners
Office of Petitions

cc: JAMES D. IVEY
3025 TOTTERDELL STREET
OAKLAND, CA 94611

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ULMER & BERNE LLP
AVAYA INC.
1660 WEST 2ND STREET, SUITE 1100
CLEVELAND OH 44113

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NOV 15 2011
OFFICE OF PETITIONS

In re Application :
Sean S.B. Moore :
Application No. 11/111,465 : DECISION ON APPLICATION
Filed: April 21, 2005 : FOR PATENT TERM ADJUSTMENT
Attorney Docket No. **25512-0087** :

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705" filed November 3, 2011. Applicant requests that the determination of patent term adjustment be corrected to 1176 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 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]

To the extent that applicant otherwise requests correction of the patent term adjustment at the time of the mailing of the Notice of Allowance, the application for patent term adjustment is **DISMISSED**.

On March 13, 2009 applicants filed a response with a one month extension of time to the non-final Office action mailed November 28, 2008. Then on May 9, 2009, applicants filed a Supplemental Response. Pursuant to 37 CFR § 1.704(c)(8), the submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed, is a failure to engage in reasonable efforts to conclude prosecution.

Petitioners calculate the applicant delay as 35 days thereby disputing the reduction of 57 days for the filing of the Supplemental Information Disclosure Statement (IDS) filed May 9, 2009. Petitioners do not state a basis for their dispute nonetheless, a review of the record does not support a conclusion that the IDS was expressly requested by the examiner and neither did the IDS include a 1.704(d) statement.

In view thereof, it is concluded that the determination of patent term adjustment at the time of the mailing of the Notice of Allowance remains as 587 days as indicated in the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) mailed August 3, 2011.

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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.

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

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

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

THE WEBB LAW FIRM, P.C.
436 SEVENTH AVENUE
700 KOPPERS BUILDING
PITTSBURGH PA 15222

MAILED
SEP 23 2011
OFFICE OF PETITIONS

In re Application of:	:	
Brown et al.	:	
Application No. 11/111470	:	DECISION ON
Filing or 371(c) Date: 04/21/2005	:	PETITION
Title of Invention:	:	
KARABINER	:	

This Decision is in response to the Petition to Correct Inventorship in a Nonprovisional Patent Application Under 37 CFR § 1.48(a)," filed April 23, 2009. The petition is properly treated under 37 CFR 1.182.[1]

The petition Under 37 CFR § 1.48 is **granted**.

Applicant asserted that through error, and without deceptive intent, inventor Mark Carnall, was inadvertently omitted as an inventor of the present application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.48(a).

Office records have been corrected to reflect the addition of inventor Mark Carnall.

A Corrected Filing Receipt identifying the inventorship of the application is enclosed.

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

/DLW/

Derek L. Woods
Attorney
Office of Petitions

Enclosure: Corrected Filing Receipt

[1] Office records reveal that the present application is abandoned, and correction of inventorship in an abandoned application is a situation not otherwise provided for in the Rules. Accordingly, the petition is properly treated under 37 CFR 1.182.

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
11/111,470	04/21/2005	3677	1115	3265-044425	42	2

CONFIRMATION NO. 2558

CORRECTED FILING RECEIPT

28289
THE WEBB LAW FIRM, P.C.
ONE GATEWAY CENTER
420 FT. DUQUESNE BLVD, SUITE 1200
PITTSBURGH, PA 15222

OC000000049971413

Date Mailed: 09/22/2011

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

Applicant(s)

Kevin Brown, Warrington, UNITED KINGDOM;
Mark Carnall, Bristol, UNITED KINGDOM;

Assignment For Published Patent Application

DMM Engineering Limited, Llanberis, UNITED KINGDOM

Power of Attorney:

David Hanson--23024
Russell Orkin--25363
Kent Baldauf--25826
Richard Byrne--28498
Paul Reznick--33059
Kent Baldauf Jr--36082
Julie Meder--36216
Nathan Prepelka--43016
Christian Schuster--43908
Patricia Olosky--53411

Domestic Priority data as claimed by applicant

This application is a CIP of 09/922,496 08/03/2001 ABN

Foreign Applications (You may be eligible to benefit from the **Patent Prosecution Highway** program at the USPTO. Please see http://www.uspto.gov for more information.)
UNITED KINGDOM 0019136.1 08/04/2000

If Required, Foreign Filing License Granted: 05/18/2005
The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/111,470**
Projected Publication Date: Not Applicable
Non-Publication Request: No
Early Publication Request: No

** SMALL ENTITY **
Title

Karabiner

Preliminary Class

024

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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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. 11/111,488	:	DECISION ON PETITION
Filed: April 20, 2005	:	TO WITHDRAW
Attorney Docket No. **QQ1-140US**	:	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

Commissioner for Patents
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FISH & RICHARDSON PC (BO)
PO BOX 1022
MINNEAPOLIS MN 55440-1022

MAILED

SEP 19 2011

OFFICE OF PETITIONS

In re Patent No. 7,976,936	:	DECISION ON
Sahatjian, et al.	:	PATENT TERM ADJUSTMENT
Issue Date: July 12, 2011	:	AND NOTICE OF INTENT
Application No. 11/111,509	:	TO ISSUE
Filed: April 21, 2005	:	CERTIFICATE OF
Attorney Docket No. 10527-0658001	:	CORRECTION

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. 1.705(d)", filed September 12, 2011. Patentees request that the patent term adjustment indicated on the patent be corrected from one thousand five hundred ten (1510) days to one thousand five hundred thirty-one (1531) days.

The petition is **GRANTED**.

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 five hundred thirty-one (1531)** days.

On July 12, 2011, the above-identified application matured into U.S. Patent No. 7,976,936. Patentees timely filed an application for patent term adjustment under 37 CFR 1.705(d) on September 12, 2011. Patentees assert that they should not have been assessed applicant delay of one hundred ten (110) days for the submission

of a Rule 312 Amendment on March 25, 2011, after the Notice of Allowance was mailed on February 18, 2011. Rather, Patentees assert that they should have only been assessed applicant delay of eighty-nine (89) days.

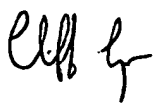
37 CFR 1.704(c)(10) states that applicant delay shall be assessed "beginning on the date the...paper was filed and ending on the mailing date of the Office action or notice in response to the... paper". Here, Applicant filed the Rule 312 Amendment on March 25, 2011, and the Office mailed a Response to Rule 313 Communication on June 21, 2011. Accordingly, Applicants should have been accorded 89 days of delay for the filing of the Rule 312 Amendment, not 110 days as reflected in PAIR.

In view thereof, the correct determination of PTA at the time of issuance is one thousand five hundred thirty-one (1531) days (1226 days of "A" delay and 1177 days of "B" delay, reduced by 316 (227+89) 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 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 five hundred thirty-one (1531)** days subject to any disclaimers.

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



Cliff Congo
Petitions Attorney
Office of Petitions

Enc: draft certificate of correction

UNITED STATES PATENT AND TRADEMARK OFFICE

DRAFT CERTIFICATE OF CORRECTION

PATENT : 7,976,936 B2

DATED : **July 12, 2011**

INVENTOR(S) : Sahatjian 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 1510 days.

Delete the phrase "by 1510 days" and insert – by 1531 days--

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7,229,358	2007-06-12	11/111,628	2005-04-21	502479

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	/Sean M. Carlini/	Date (YYYY-MM-DD)	2011-08-11
Name	Sean M. Carlini		
Enter Reel and Frame Number		Remove	
Reel Number	016543	Frame Number	0394
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
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In re Patent No. 7229358
Issue Date: June 12,2007
Application No. 11111628
Filed: April 21,2005
Attorney Docket No. 502479

:

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

:

This is a decision on the electronic petition, filed August 11,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of August 11,2011 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110531

DATE : May 31, 2011

TO SPE OF : ART UNIT 1645

SUBJECT : Request for Certificate of Correction on Patent No.: 7786255

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

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

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

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

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

Note your decision on the appropriated box.

☒ **Approved** All changes apply.

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

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

Comments:

/GARY NICKOL/
Supervisory Patent Examiner.Art Unit 1645

UNITED STATES PATENT AND TRADEMARK OFFICE

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 27 2010

OFFICE OF PETITIONS

In re Application of
Chuan-Hai Chou
Application No. 11/111,820
Filed: April 22, 2005
Attorney Docket No.

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 1, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of June 23, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). 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 September 24, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $405, and the submission required by 37 CFR 1.114; (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

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

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

This application is being referred to Technology Center AU 3677 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

/JoAnne Burke/
JoAnne Burke
Petitions Examiner
Office of Petitions

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 NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/111,820	04/22/2005	Chuan-Hai Chou	

CONFIRMATION NO. 5357

POA ACCEPTANCE LETTER

60601
Muncy, Geissler, Olds & Lowe, PLLC
4000 Legato Road
Suite 310
FAIRFAX, VA 22033

OC000000043730473

Date Mailed: 09/27/2010

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/01/2010.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

/jlburke/

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

/Rei Tsang Shiao/ entered 4/18/2011

Docket No.: 0020-5095PUS2
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Letters Patent of:
Norio FUJIWARA et al.

Patent No.: 7,396,842 B2

Issued: July 8, 2008

For: FIVE-MEMBERED CYCLIC COMPOUNDS

REQUEST FOR CERTIFICATE OF CORRECTION
PURSUANT TO 37 CFR 1.322

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

Sir:

Upon reviewing the above-identified patent, Patentee noted an error which should be corrected.

On the cover page of the issued patent, No. 7,396,842, Patentee notes that the "Related U.S. Application Data" does not include a proper priority citation of the International Patent application. Accordingly, Patentee respectfully requests that the priority information on the cover page of patent 7,396,842 be corrected as follows:

Division of application No. 10/312,692, filed Dec. 30, 2002, now Pat. No. 6,919,361, which is a 371 National Phase application of international patent application No. PCT/JP01/05540, filed on June 28, 2001.

The error was not in the application as filed by applicant; accordingly no fee is required.

Transmitted herewith is a proposed Certificate of Correction effecting such amendment. Patentee respectfully solicits the granting of the requested Certificate of Correction.

Dated: October 10, 2008

Respectfully submitted,

By_____

Mark J. Nuell
Registration No.: 36,623
BIRCH, STEWART, KOLASCH & BIRCH, LLP
12770 High Bluff Drive
Suite 260
San Diego, California 92130
(858) 792-8855
Attorney for Applicant

PTO/SB/44 (09-07)
Approved for use through 08/31/2010. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO.	:	7,396,842 B2
APPLICATION NO.	:	11/111,845
ISSUE DATE	:	July 8, 2008
INVENTOR(S)	:	Norio FUJIWARA et al.

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

On the cover page:

The line reading "(62) Division of application No. 10/312,692, filed on Dec. 30, 2002, now Pat. No. 6,919,361." should read " (62) Division of application No. 10/312,692, filed on Dec. 30, 2002, now Pat. No. 6,919,361-- which is a 371 national phase application of international patent application No. PCT/JP01/05540, filed on June 28, 2001--."

MAILING ADDRESS OF SENDER (Please do not use customer number below):
Mark J. Nuell
BIRCH, STEWART, KOLASCH & BIRCH, LLP 1
12770 High Bluff Drive
Suite 260
San Diego, California 92130

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110418

DATE : April 18, 2011

TO SPE OF : ART UNIT 1628

SUBJECT : Request for Certificate of Correction on Patent No.: US 7,396,842

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:

Approved.

SPE: /Brandon Fetterolf/ **Art Unit** 1628

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)
7331913	2008-02-19	11111994	2005-04-22	2626-0009

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	/Peter W. Gowdey/	Date (YYYY-MM-DD)	2012-03-26
Name	Peter W. Gowdey	Registration Number	25872

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. 7331913
Issue Date: February 19,2008
Application No. 11111994
Filed: April 22,2005
Attorney Docket No. 2626-0009

:
: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
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

WOOD, PHILLIPS, KATZ, CLARK &
MORTIMER
500 W. MADISON STREET
SUITE 3800
CHICAGO IL 60661

MAILED

JUN 20 2011

OFFICE OF PETITIONS

In re Application of :
Dechant et al. :
Application No. 11/112,362 :
Filed: April 22, 2005 :
Attorney Docket No. :
VAL06131P00512US :
Title: FORMULATION AND DELIVERY :
OF BACILLUS THURINGIENSIS :
SUBSPECIES ISRAELENSIS AND :
BACILLUS SPHAERICUS IN :
COMBINATION FOR BROAD SPECTRUM :
ACTIVITY AND MANAGEMENT OF :
RESISTANCE TO BIOLOGICAL :
MOSQUITO LARVICIDES :

ON APPLICATION FOR
PATENT TERM ADJUSTMENT

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT RECONSIDERATION UNDER 37 C.F.R. §1.705(b)," filed May 31, 2011 (certificate of mailing May 25, 2011). Applicants state an additional adjustment of 402 days is required.

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

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

On February 25, 2011, 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 is 287 days. In response, applicants timely filed the instant request for reconsideration of the patent term adjustment.

Applicants contend that the Office Communication mailed on April 30, 2008 in response to the amendment submitted on January 16,

2008 was issued in error as the January 16, 2008 response was fully responsive. Applicants state that the examiner interview summary was mailed from the USPTO wherein the examiner confirmed that he would issue an Office action. A final Office action was mailed on June 22, 2009. Applicants state the final Office action was mailed beyond the four months provided by 35 U.S.C. §154(b)(1)(A)(ii) from May 16, 2008 until June 22, 2009 should result in a 402 day adjustment.

Applicants' argument has been considered but is not persuasive. Patentee in essence argues that the Office action of June 24, 2008 "withdrew" the Notice of April 30, 2008, and as such the Notice of April 30, 2008 should be treated as not having been issued for purposes of determining whether the issuance of the patent was delayed due to the failure of the USPTO to respond to applicants' reply of January 16, 2008 within four months after the date on which the reply was filed. Patentee's arguments have been considered but are not persuasive

The vacatur of an Office action sets aside or withdraws any rejection, objection or requirement in an Office action, as well as the requirement that the applicant timely reply to the Office action to avoid abandonment under 35 U.S.C. § 133. The vacatur of an Office action signifies that the Office action has been set aside, voided, or withdrawn as of the date of the vacating Office action or notice. The vacatur of an Office action, however, does **not** signify that the vacated Office action is void *ab initio* and is to be treated as if the USPTO had never issued the Office action. The patent examination process provided for in 35 U.S.C. §§ 131 and 132 contemplates that Office actions containing rejections, objections or requirements will be issued, and that the applicant will respond to these Office action, "with or without amendment." (35 U.S.C. § 132(a)). The mere fact that an examiner or other USPTO employee upon further reflection determines that an Office action, or that a rejection, objection or requirement in an Office action, is not correct and must be removed does not warrant treating the Office action as void *ab initio* and as if the USPTO had never issued the Office action.

The USPTO appreciates that there may be situations in which it is appropriate to treat an Office action or notice issued in an application as void *ab initio* and as if the USPTO had never issued the Office action. However, these would be extremely rare situations, such as the issuance of an Office action or

notice by an employee who does not have the authority to issue that type of Office action or notice, the issuance of an Office action or notice in the wrong application, or the issuance of an Office action or notice containing language not appropriate for inclusion in an official document. In essence, the situations in which it is appropriate to treat an Office action or notice issued in an application as void *ab initio* and as if the USPTO had never issued the Office action are the situations in which it is appropriate to expunge an Office action or notice from the USPTO's record of the application. That is simply **not** the case in this situation.

Unless expunged from the record (which is not warranted in this situation), for purposes of calculating patent term adjustment, the Office action entered by the examiner on April 30, 2008, was properly used to determine whether the USPTO delayed the issuance of the above-identified patent by failing to respond to the reply of January 16, 2008 within four months from the filing of the reply under of 35 U.S.C. § 154(b)(1)(A)(ii) and 37 CFR 1.702(a)(2). *See Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term*, 65 *Fed. Reg.* 54366 (Sept. 18, 2000) (final rule).

In view thereof, the correct patent term adjustment at the time of the mailing of the notice of allowance is 287 days.

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

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

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

Charlema Grant
Attorney
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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WOOD, PHILLIPS, KATZ, CLARK &
MORTIMER
500 W. MADISON STREET
SUITE 3800
CHICAGO IL 60661

MAILED

DEC 05 2011

OFFICE OF PETITIONS

In re Application of :
Dechant et al. :
Application No. 11/112,362 :
Filed: April 22, 2005 :
Attorney Docket No. :
VAL06131P00512US :
Title: FORMULATION AND DELIVERY :
OF BACILLUS THURINGIENSIS :
SUBSPECIES ISRAELENSIS AND :
BACILLUS SPHAERICUS IN :
COMBINATION FOR BROAD SPECTRUM :
ACTIVITY AND MANAGEMENT OF :
RESISTANCE TO BIOLOGICAL :
MOSQUITO LARVICIDES :

DECISION ON REQUEST FOR RECONSIDERATION OF PATENT TERM

This is a decision on the "SECOND APPLICATION FOR PATENT TERM ADJUSTMENT RECONSIDERATION UNDER 37 C.F.R. §1.705(b)," filed October 11, 2011 (certificate of mailing October 3, 2011). This request is properly treated under 37 CFR 1.705(d). Patentees request that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand one hundred ninety-three (1,193) days.

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

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

Patentees continue to dispute "A delay" and contend "A delay" should total 689 days. Patentees contend that the Office Communication mailed on April 30, 2008 in response to the amendment submitted on January 16, 2008 was issued in error as

the January 16, 2008 response was fully responsive. Applicants state that the examiner interview summary was mailed from the USPTO wherein the examiner confirmed that he would issue an Office action. A final Office action was mailed on June 22, 2009. Applicants state the final Office action was mailed beyond the four months provided by 35 U.S.C. §154(b)(1)(A)(ii) from May 16, 2008 until June 22, 2009 should result in a 402 day adjustment.

Patentees' argument has been considered but is not persuasive. Patentee in essence argues that the Office action of June 24, 2008 "withdrew" the Notice of April 30, 2008, and as such the Notice of April 30, 2008 should be treated as not having been issued for purposes of determining whether the issuance of the patent was delayed due to the failure of the USPTO to respond to applicants' reply of January 16, 2008 within four months after the date on which the reply was filed. Patentee's arguments have been considered but are not persuasive

The vacatur of an Office action sets aside or withdraws any rejection, objection or requirement in an Office action, as well as the requirement that the applicant timely reply to the Office action to avoid abandonment under 35 U.S.C. § 133. The vacatur of an Office action signifies that the Office action has been set aside, voided, or withdrawn as of the date of the vacating Office action or notice. The vacatur of an Office action, however, does **not** signify that the vacated Office action is void *ab initio* and is to be treated as if the USPTO had never issued the Office action. The patent examination process provided for in 35 U.S.C. §§ 131 and 132 contemplates that Office actions containing rejections, objections or requirements will be issued, and that the applicant will respond to these Office action, "with or without amendment." (35 U.S.C. § 132(a)). The mere fact that an examiner or other USPTO employee upon further reflection determines that an Office action, or that a rejection, objection or requirement in an Office action, is not correct and must be removed does not warrant treating the Office action as void *ab initio* and as if the USPTO had never issued the Office action.

The USPTO appreciates that there may be situations in which it is appropriate to treat an Office action or notice issued in an application as void *ab initio* and as if the USPTO had never issued the Office action. However, these would be extremely rare situations, such as the issuance of an Office action or

notice by an employee who does not have the authority to issue that type of Office action or notice, the issuance of an Office action or notice in the wrong application, or the issuance of an Office action or notice containing language not appropriate for inclusion in an official document. In essence, the situations in which it is appropriate to treat an Office action or notice issued in an application as void *ab initio* and as if the USPTO had never issued the Office action are the situations in which it is appropriate to expunge an Office action or notice from the USPTO's record of the application. That is simply **not** the case in this situation.

Unless expunged from the record (which is not warranted in this situation), for purposes of calculating patent term adjustment, the Office action entered by the examiner on April 30, 2008, was properly used to determine whether the USPTO delayed the issuance of the above-identified patent by failing to respond to the reply of January 16, 2008 within four months from the filing of the reply under of 35 U.S.C. § 154(b)(1)(A)(ii) and 37 CFR 1.702(a)(2). *See Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term*, 65 *Fed. Reg.* 54366 (Sept. 18, 2000) (final rule).

Patentees also dispute the 6 day reduction taken for the submission of the issue fee payment on May 31, 2011. Patentees argue since the May 31, 2011 issue fee payment included a certificate of mailing dated May 25, 2011 the issue fee was timely submitted. Thus the 6 day reduction is improper.

In this instance, a reduction of 6 days for the submission of reply on May 31, 2011 is warranted. The PTA was properly reduced by 6 days, the number of days in excess of three months that was taken to reply to the February 25, 2011 Notice of Allowance. The date indicated on a certificate of mailing is used only to determine whether the correspondence is timely (including whether any extension of the time and fee are required) so as to avoid abandonment of the application or termination or dismissal of proceedings. The actual date of receipt of the correspondence in the Office is used for all other purposes. See 37 CFR 1.8(a). Thus, while the date indicated on any certificate of mailing or transmission under 37 CFR 1.8 will continue to be taken into account in determining timeliness, the date of filing (37 CFR 1.6) will be the date used in a patent term adjustment calculation. See MPEP 2731.

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

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

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

Charlema Grant

Charlema Grant
Attorney Advisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DOLBY LABORATORIES INC.
100 POTRERO AVENUE
SAN FRANCISCO CA 94103-4938

MAILED
OCT 07 2010
OFFICE OF PETITIONS

In re Patent No. 7,106,505	:	
Issued: September 12, 2006	:	
Application No. 11/112,428	:	ON PETITION
Filed: April 22, 2005	:	
Attorney Docket No. BST03US03	:	

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

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

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

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

It is not apparent whether the person signing the instant petition was ever given a power of attorney or authorization of agent regarding this patent. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts. While, a courtesy copy of this decision is being mailed to the address given on the petition, the Office will mail all future correspondence solely to the address of record.

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

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Gavin N. Manning
480 The Station, 601 West Cordova Street
Vancouver, British Columbia, Canada V6B 1G1

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

MITCHELL P. BROOK
LUCE, FORWARD, HAMILTON & SCRIPPS LLP
600 WEST BROADWAY, SUITE 2600
SAN DIEGO CA 92101

MAILED
JUN 20 2011
OFFICE OF PETITIONS

In re Application of :
Jared Morgenstern et al :
Application No. 11/112,483 : DECISION ON REQUEST FOR REFUND
Filed: April 21, 2005 :
Attorney Docket No. 30289-1220 :

This is a decision on the Request For Refund filed June 8, 2011.

The request is **DISMISSED**.

A Petition for Revival of Application for Patent abandoned unintentionally under the provisions of 37 CFR 1.137(b), accompanied by a Request for Continued Examination (RCE) and amendment in reply to the final Office action mailed November 30, 2010, and the required fees were received in the USPTO on June 8, 2011.

Applicant now files the above request for refund in the amount of $1,620.00, and states that the Office action mailed November 30, 2010, was never received. However, applicant is encouraged to note MPEP 711.03(c) which states that:

> [T]he petition fee is required for the filing (and not merely the grant) of a petition under 37 CFR 1.137. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6 (1982), reprinted in 1982 U.S.C.C.A.N. 770 ("[t]he fees set forth in this section are due on filing the petition"). Therefore, the Office: (A) will not refund the petition fee required by 37 CFR 1.17(1) or 1.17(m), regardless of whether the petition under 37 CFR 1.137 is dismissed or denied; and (B) will not reach the merits of any petition under 37 CFR 1.137 lacking the requisite petition fee.

In view of the above, the request for refund is dismissed.

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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MITCHELL P. BROOK
LUCE, FORWARD, HAMILTON & SCRIPPS LLP
600 West Broadway, Suite 2600
SAN DIEGO CA 92101

MAILED
JUL 27 2011
OFFICE OF PETITIONS

In re Application of	:	
Morgenstern et al.	:	DECISION ON PETITION
Application Number: 11/112,483	:	
Filing Date: 04/21/2005	:	
Attorney Docket Number: 30289-1220	:	

This is a decision on the petition filed on June 8, 2011, under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on March 1, 2011, for failure to timely file a response to the final Office action mailed on November 30, 2010, which set a three (3)-month shortened statutory period for reply. No extensions of time under 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on June 7, 2011.

Receipt of the request for continued examination and submission under 37 CFR 1.114 filed on June 8, 2011 is acknowledged.

The address in the petition is different than the correspondence address. A courtesy copy is being mailed to the address in the petition. All future correspondence, however, will be mailed solely to the address of record.

The application will be referred to Technology Center Art Unit 3625 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

Cc: MARLAN D. WALKER
2050 MAIN ST, STE 600
IRVINE CA 92614

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20120105

DATE : January 05, 2012

TO SPE OF : ART UNIT 2617

SUBJECT : Request for Certificate of Correction on Patent No.: 7715856

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:

/LESTER KINCAID/
Supervisory Patent Examiner.Art Unit 2617

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ASHKAN NAJAFI, P.A.
6817 SOUTHPOINT PARKWAY
SUITE 2301
JACKSONVILLE FL 32216

MAILED
JAN 30 2012
OFFICE OF PETITIONS

In re Patent No. 6,996,858
Issue Date: February 14, 2006
Application No. 11/112,548
Filed: April 25, 2005
For: TOILET SEAT APPARATUS

LETTER

This letter is the result of a sua sponte review of the June 21, 2010 electronically filed petition under 37 CFR 1.378(c) to accept the delayed payment of a maintenance fee in the above-identified application.

A review of USPTO records reveals that the "Petition To Accept Unintentionally Delayed Payment Of Maintenance Fee In An Expired Patent (37 CFR 1.378(c)" and the accompanying "Electronic Patent Application Fee Transmittal" submission filed June 21, 2010 were erroneously accepted. Petitioner has not submitted a renewed petition under 37 CFR 1.378(c), as required in the petition decision mailed May 6, 2010 along with the required $400.00 reconsideration fee. Therefore, a petition for reconsideration under 37 CFR 1.378(e) along with the required $400.00 reconsideration fee must be filed within **TWO (2) MONTHS** from the mail date of this letter.

If applicant fails to submit the above, the electronically filed, June 21, 2010, petition under 37 CFR 1.378(c) will be **VACATED** and the status will be changed to indicate that the above-identified patent is expired.

The renewed petition cannot be filed using the ePetition format but must instead be filed to the Office of Petitions for consideration.

Any inquiries directly pertaining to this matter may be directed to the undersigned at (571) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

Cc:

JAMES G. YORK
3738 SOUTH 3100 EAST
SALT LAKE CITY, UT 84109

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MAILED
MAR 22 2012
OFFICE OF PETITIONS

ASHKAN NAJAFI, P.A.
6817 SOUTHPOINT PARKWAY
SUITE 2301
JACKSONVILLE FL 32216

In re Patent No. 6,996,858	:	
Issue Date: February 14, 2006	:	
Application No. 11/112,548	:	ON PETITION
Filed: April 25, 2005	:	
For: TOILET SEAT APPARATUS	:	

This is a decision on the "PETITION FOR RECONSIDERATION UNDER 37 CFR 1.378(e)," filed March 13, 2012, and Supplemental to the petition filed June 21, 2010, to accept the unintentionally 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.

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

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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AT&T Legal Department - HFZ
ATTN. Patent Docketing
One AT&T Way
Room 2A-207
Bedminstor NJ 07921

MAILED

JUL 19 2011

OFFICE OF PETITIONS

In re Application of	:	
HURST et al.	:	DECISION ON APPLICATION
Application No. 11/112,617	:	FOR
Filed: April 22, 2005	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 20103/MS1091A	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT/REQUEST FOR CORRECTION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)" filed June 28, 2011, which is properly treated as a petition under 37 CFR 1.705(b), requesting correction of the patent term adjustment to one thousand fifty-six (1056) days.

The request for reconsideration of the 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 determination at the time of the mailing of the notice of allowance is **one thousand fifty-six (1056) days.** A copy of the updated PAIR screen, showing the corrected determination, is enclosed.

To the extent that the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the

patent within three years of the filing date,[1] the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

On March 31, 2011, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 958 days.

Applicants dispute the 98 days of reduction, pursuant to 37 CFR 1.704(c)(8), for the filing of the terminal disclaimer on November 1, 2010. Applicants assert that during telephonic interviews with the Examiner on October 21, 2010, and November 1, 2010, the Examiner expressly requested that applicants submit the terminal disclaimer of November 1, 2010.

Pursuant to 37 CFR 1.704(c)(8):

> Submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the initial reply was filed and ending on the date that the supplemental reply or other such paper was filed[.]

It is undisputed that after filing an initial reply on July 26, 2010, applicants filed a supplemental paper in the form of a terminal disclaimer on November 1, 2010. Nevertheless, the

---

[1] Applicants state:

> As noted on its website[,] the Office does not calculate the B delay or the overlapping A and B delay under Wyeth until a patent issues and the issue date is known. Accordingly, the assignee does not request reconsideration of the B delay and/or the overlapping A and B delay portions of the Office's patent term adjustment determination at this time, but reserves the right to request reconsideration, if appropriate, under 37 CFR § 1.705(d).
>
> However, for completeness under 37 CFR § 1.705(b), calculations of the B delay and the overlapping A and B delay under Wyeth are included herein because an RCE was filed on March 8, 2011.

Petition, p. 3

record supports a conclusion that the Examiner expressly requested the filing of the terminal disclaimer. Accordingly, the period of reduction of 98 days is unwarranted and will be removed.

The Office notes that knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within three years. See § 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[2].

In view thereof, the patent term adjustment determination at the time of the mailing of the notice of allowance is **one thousand fifty-six (1056) days** (1056 days of Office delay - 0 days of applicant delay).

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

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

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of updated PAIR screen

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

11/112,617	METHODS AND APPARATUS TO SELF-CONFIGURE A FLEXIBLE RESIDENTIAL GATEWAY	20103/MS1091A	07-14-2011::15:53:45

Patent Term Adjustments

Patent Term Adjustment (PTA) for Application Number: 11/112,617

Filing or 371(c) Date:	04-22-2005	Overlapping Days Between {A and B} or {A and C}:	0
Issue Date of Patent:	-	Non-Overlapping USPTO Delays:	1056
A Delays:	1056	PTO Manual Adjustments:	98
B Delays:	0	Applicant Delays:	98
C Delays:	0	Total PTA Adjustments:	1056

Patent Term Adjustment History **Explanation Of Calculations**

Number	Date	Contents Description	PTO (Days)	APPL (Days)	Start
93	07-14-2011	Adjustment of PTA Calculation by PTO	98		0
86	03-31-2011	Mail Notice of Allowance			0
85	03-29-2011	Issue Revision Completed			0
84	03-29-2011	Document Verification			0
83	03-29-2011	Notice of Allowance Data Verification Completed			0
82	03-28-2011	Allowability Notice			0
81	03-08-2011	Information Disclosure Statement considered			0
80	03-08-2011	Information Disclosure Statement (IDS) Filed			0
79	03-08-2011	Reference capture on IDS			0
78	03-08-2011	Electronic Information Disclosure Statement			0
77	03-08-2011	Request for Continued Examination (RCE)			0
76	03-08-2011	Disposal for a RCE / CPA / R129			0
75	03-08-2011	Workflow - Request for RCE - Begin			0
74	02-03-2011	Finished Initial Data Capture			0
73	12-13-2010	Export to Initial Data Capture			0
72	12-13-2010	Paralegal TD Accepted			0
71	11-01-2010	Terminal Disclaimer Filed		98	55
70	12-09-2010	Mail Examiner's Amendment			0

69	12-09-2010	Mail Notice of Allowance	13		55
68	12-06-2010	Notice of Allowance Data Verification Completed			0
67	12-02-2010	Issue Revision Completed			0
66	11-23-2010	Miscellaneous Incoming Letter			0
65	11-09-2010	Allowed Case Returned to the Examiner for Clerical Processing			0
64	11-09-2010	Document Verification			0
63	11-08-2010	Examiner's Amendment Communication			0
62	11-08-2010	Allowability Notice			0
60	08-25-2010	Mail Advisory Action (PTOL - 303)			0
59	08-24-2010	Advisory Action (PTOL-303)			0
56	07-27-2010	Date Forwarded to Examiner			0
55	07-26-2010	Amendment after Final Rejection			0
54	05-25-2010	Mail Final Rejection (PTOL - 326)			0
53	05-24-2010	Final Rejection			0
52	03-12-2010	Date Forwarded to Examiner			0
51	02-17-2010	Response after Non-Final Action			0
50	11-17-2009	Mail Non-Final Rejection			0
49	11-12-2009	Non-Final Rejection			0
48	07-30-2009	Information Disclosure Statement considered			0
47	07-30-2009	Electronic Information Disclosure Statement		0	45
46	09-01-2009	Date Forwarded to Examiner			0
45	07-30-2009	Response after Non-Final Action			0
44	07-30-2009	Information Disclosure Statement (IDS) Filed			0
43	03-26-2009	Reference capture on IDS			0
42	03-26-2009	Electronic Information Disclosure Statement			0

41	04-30-2009	Mail Non-Final Rejection	1043	0.5
40	04-28-2009	Non-Final Rejection		0
39	03-26-2009	Information Disclosure Statement considered		0
38	09-25-2008	Information Disclosure Statement considered		0
37	07-08-2005	Information Disclosure Statement considered		0
31	03-26-2009	Information Disclosure Statement (IDS) Filed		0
30	12-28-2008	Case Docketed to Examiner in GAU		0
29	11-13-2008	Correspondence Address Change		0
28	09-25-2008	Electronic Information Disclosure Statement		0
27	09-25-2008	Information Disclosure Statement (IDS) Filed		0
26	05-20-2008	Case Docketed to Examiner in GAU		0
23	02-20-2008	Case Docketed to Examiner in GAU		0
22	10-17-2007	Withdraw Flagged for 5/25		0
21	10-15-2007	Flagged for 5/25		0
20	06-26-2007	Case Docketed to Examiner in GAU		0
19	10-19-2006	Case Docketed to Examiner in GAU		0
18	10-10-2006	Case Docketed to Examiner in GAU		0
17	10-05-2006	Case Docketed to Examiner in GAU		0
16	03-22-2006	Case Docketed to Examiner in GAU		0
15	02-10-2006	Case Docketed to Examiner in GAU		0
14	10-26-2005	IFW TSS Processing by Tech Center Complete		0
13	10-26-2005	Case Docketed to Examiner in GAU		0
12	07-08-2005	Reference capture on IDS		0
11.7	07-08-2005	Information Disclosure Statement (IDS) Filed		0
11	07-08-	Information Disclosure Statement (IDS) Filed		0

	2005		
9	05-18-2005	Application Return from OIPE	0
8	05-19-2005	Application Is Now Complete	0
7	05-18-2005	Application Return TO OIPE	0
6	05-18-2005	Application Dispatched from OIPE	0
5	05-18-2005	Application Is Now Complete	0
4	05-09-2005	Cleared by OIPE CSR	0
3	05-09-2005	CASE CLASSIFIED BY OIPE	0
2	05-04-2005	IFW Scan & PACR Auto Security Review	0
1	04-22-2005	Initial Exam Team nn	0
0.5	04-22-2005	Filing date	0

Close Window

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500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

MAILED

MAR 03 2011

OFFICE OF PETITIONS

In re Application of :
MOHSENIAN, NADER :
Application No. 11/112,628 : ON APPLICATION FOR
Filed: 04/22/2005 : PATENT TERM ADJUSTMENT
Attorney Docket No. 16418US01 :

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 1811 days, not 1091 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

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CHICAGO IL 60661

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FEB 18 2011

OFFICE OF PETITIONS

In re Application of :
Yu :
Application No. 11/112,632 : ON APPLICATION FOR
Filed: April 22, 2005 : PATENT TERM ADJUSTMENT
Atty Docket No. **15750US02** :

This is in response to the "APPLICATION FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 35 U.S.C. 154(b) ACCOMPANYING THE NOTICE OF ALLOWANCE (37 C.F.R. § 1.705)" filed December 15, 2010, which is properly treated under 37 CFR 1.705(b). Applicants submits that the patent term adjustment to be indicated on the patent is eight hundred ninety-five (895) days, not five hundred and sixty-four (564) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

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

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As

such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

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

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

It is noted that any period of adjustment will be entered in light of 35 U.S.C. 154(B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY, which provides that:

> Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a

[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 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);

It is further noted that a Request for Continued Examination (RCE) was filed in this application on March 27, 2009.

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

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

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

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

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No.

FOLEY & LARDNER LLP
P.O. BOX 80278
SAN DIEGO CA 92138-0278

MAILED
JAN 27 2011
OFFICE OF PETITIONS

In re Patent No. 7,524,636	:	DECISION ON REQUEST
Bryant-Greenwood et al.	:	FOR
Issue Date: April 28, 2009	:	RECONSIDERATION OF
Application No. 11/112,659	:	PATENT TERM ADJUSTMENT
Filed: April 22, 2005	:	and
Atty Docket No. UOH1360-1US	:	NOTICE OF INTENT TO ISSUE
(080936-0503)	:	CERTIFICATE OF CORRECTION
	:	

This is a decision on the petition filed on June 15, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by **five hundred thirty-six (536)** 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 **five hundred thirty-five (535)** 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 April 23, 2008 and ends on September 11, 2008, the day before the RCE was filed. See 35 U.S.C. 154(b)(1)(B)(i). Thus, the over 3 year period is 142 not 143 days. Accordingly, the e patent term adjustment is increased to 535 days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or

patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The required $200.00 fee set forth in 37 CFR 1.18(e) is being charged to Deposit Account No. 19-0741, as authorized. No additional fees are required. (It is noted that the fee was not charged in connection with the original request for reconsideration of patent term adjustment filed March 9, 2009).

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **five hundred thirty-five (535)** 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 : 7,524,636 B2

DATED : **April 28, 2009** **DRAFT**

INVENTOR(S) : Bryant-Greenwood 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 393 days

Delete the phrase "by 393 days" and insert – by 535 days--

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

MAILED
AUG 03 2010
OFFICE OF PETITIONS

In re Application of	:	
O'Neil, et al.	:	
Application No. 11/112,701	:	ON REQUEST FOR
Filed: April 22, 2005	:	RECONSIDERATION OF
Attorney Docket Number: CEN5055 USNP	:	PATENT TERM ADJUSTMENT

This is a decision on the petition under 37 CFR 1.705(b), filed January 21, 2010. Applicants believe that they should be accorded an additional PTA of 342 days. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

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

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

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

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

In view thereof, the correct determination of PTA prior to issuance is **one hundred eighty-five (185) days** (336 days of PTO delay, reduced by 151 days of Applicant delay).

Receipt of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged.

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

Telephone inquiries specific to this decision should be directed to Petitions Attorney Cliff Congo at (571) 272-3207.

Anthony Knight
Director
Office of Petitions

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

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Alexandria, VA 22313-1450
www.uspto.gov

OPPENHEIMER WOLFF & DONNELLY, LLP
45 SOUTH SEVENTH STREET, SUITE 3300
MINNEAPOLIS, MN 55402

MAILED

OCT 26 2011

OFFICE OF PETITIONS

In re Application of :
Bjarne Bergheim, et. al. :
Application No. 11/112,757 : NOTICE
Filed: April 22, 2005 :
Attorney Docket No. 22561-7401/US :

This is a Notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28, filed on September 29, 2011.

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

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**. Therefore, status as a small entity has been removed and any future fee(s) submitted must be paid at the large entity rate.

Additionally, the request is not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Kyle E. Conklin appearing on the request shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. Therefore, since the address given in the present request differs from the correspondence address of record, a courtesy copy of this decision is being mailed to the address given in the request.

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

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Kyle E. Conklin
1100 New York Avenue, NW
Washington, DC 20005-3934

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 08/28/10

TO SPE OF : ART UNIT 3775

SUBJECT : Request for Certificate of Correction for Appl. No.: 11112814 Patent No.: 7641694

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
[redacted]

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.

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

Comments: _____

_____

_____

_____

_____

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

/Thomas C. Barrett/

SPE Art Unit 3738

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

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

MAILED
SEP 08 2010
OFFICE OF PETITIONS

In re Application of :
Yiwen Fang et al :
Application No. 11/112,824 :
Filed: April 22, 2005 :
Attorney Docket No. 18207-004001

ON PETITION

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on August 23, 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 1638 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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FISH & RICHARDSON P.C. (TC)
PO BOX 1022
MINNEAPOLIS MN 55440-1022

MAILED

JUL 19 2011

OFFICE OF PETITIONS

In re Application of	:	
Pennell et al.	:	
Patent Number: 7,897,839	:	DECISION ON
Issue Date: 03/01/2011	:	APPLICATION FOR
Application No. 11/112824	:	PATENT TERM ADJUSTMENT
Filing or 371(c) Date: 04/22/2005	:	and NOTICE OF INTENT TO ISSUE
Attorney Docket Number: 18207-004001	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on May 2, 2011, requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by six hundred thirty-five (635) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by six hundred thirty-five (635) days is **GRANTED to the extent indicated herein**.

Patentees, in good faith and candor, submit that the Office errantly neglected to assess a reduction of 96 days in connection with the filing of a reply to a Notice to Comply with Requirements for Patent Applications Containing Nucleotide and/or Amino Acid Sequences, mailed June 26, 2007.

Patentees also submit that this Office errantly neglected to assess a reduction of 118 days in connection with the filing of a reply to a Notice of Non-Compliant Amendment, mailed March 31, 2010, informing Applicant that an Amendment filed December 23, 2009, was non-compliant.

Patentees note also, in good faith and candor, that he Office errantly neglected to assess a reduction in connection with the filing of a Request to Correct Inventorship subsequent to the mailing of a Notice of Allowance.

Finally, Patentees dispute the "B-Delay" period, and assert that the B-Delay period should include the period of time beginning with the filing of a Notice of Appeal on November 22, 2008, and ending on March 25, 2009 with the mailing by this Office of a Notice of Allowance.

Regarding the reduction of 96 days in connection with the filing of a reply to a Notice to Comply with Requirements for Patent Applications Containing Nucleotide and/or Amino Acid Sequences, mailed June 26, 2007, a review of the application history reveals that this Office mailed a Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures ("Notice"), on April 20, 2007. Applicants timely filed a reply on May 23, 2007. The Office thereafter mailed a Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures on June 26, 2007, and provided a two (2) month period for reply. Applicants timely filed a reply to the Notice on August 27, 2007. In view of the Office's mailing of a new Notice, and re-setting of the period for reply, there is no reduction pursuant to 37 CFR 1.704(c)(7).

Regarding the reduction of 118 days in connection with the filing of a reply to a Notice of Non-Compliant Amendment, mailed March 31, 2010, informing Patentees that an Amendment filed December 23, 2009, was non-compliant, a review of the application file history confirms that Patentees filed an Amendment in response to a non-final Office action mailed July 6, 2009, on December 23, 2009. The Office mailed a Notice of Non-Compliant Amendment on March 31, 2010, informing Patentees that the Amendment was non-compliant. Patentees thereafter filed an Amendment in response to the Notice of Non-Compliant Amendment on April 20, 2010. Pursuant to 37 CFR 1.704(c)(7), a reduction of 118 days, beginning on the day after the Amendment filed March 31, 2010, was filed, and ending on the date the Amendment in response to the Notice of Non-Compliant Amendment was filed, April 20, 2010, is appropriate.

Regarding the reduction of 9 days in connection with the filing of a Request to Correct Inventorship subsequent to the mailing of a Notice of Allowance, Office records confirm that the Office mailed a Notice of Allowance on September 29, 2010. Patentees' filed a Request to Correct Inventorship on November 18, 2010, and the Office mailed a response to the Request to Correct Inventorship on November 26, 2010. Pursuant to 37 CFR 1.704(c)(10), a reduction of 9 days, beginning on the day the Request to Correct Inventorship was filed, and ending on the mail date of the response, November 26, 2010, is appropriate.

Finally, as to the period of time excluded from B delay for appellate review, Patentee's argument has also been considered, but not found persuasive. The period consumed by appellate review, whether successful or not, is excluded from the calculation of B delay. See, 35 U.S.C. 154(b)(1)(B)(ii). An appeal to the Board of Patent Appeals and Interferences commences with the filing of a notice of appeal. See 35 U.S.C. 134(a). Generally, an appeal to the Board of Patent Appeals and Interferences ends with either 1) a Board decision, 2) the examiner reopening prosecution and issuing another Office action, or 3) the applicant filing a request to withdraw the appeal and reopen prosecution (e.g. the filing of a request for continued examination). In this instance the period consumed by appellate review is 125 days, beginning on November 21, 2008, the date of filing of the notice of appeal, and ending on March 25, 2009, the date of mailing of the Notice of Allowance.

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

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

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

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

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by four hundred two **(452)** days (Office adjustments of 763 days (468 days + 295 days) reduced by Applicant delays of 311 days (4 days + 10 days + 92 days + 78 days + 118 days + 9 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 : 7,897,839 B2

DATED : March 1, 2011

INVENTOR(S) : Pennell 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 579 days.

Delete the phrase "by 579 days" and insert – by 452 days--

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OCT 01 2010

OFFICE OF PETITIONS

GREENBERG TRAURIG, LLP
1200 SEVENTEENTH STREET,
SUITE 2400
DENVER CO 80202

In re Application of	:	
Kenneth A. GALL, et al	:	
Application No. 11/112,865	:	DECISION ON PETITION
Filed: April 21, 2005	:	
Attorney Docket No. 036302-010201	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, February 18, 2010, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on May 19, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1620; and (3) a proper statement of unintentional delay.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1110 extension of time fee submitted with the petition on August 19, 2010, was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's Deposit Account .No. 50-2775.

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

This application is being referred to Technology Center AU 3775 for appropriate action by the Examiner in the normal course of business.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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COOPER & DUNHAM, LLP
30 Rockefeller Plaza
20th Floor
NEW YORK NY 10112

MAILED
AUG 30 2010
OFFICE OF PETITIONS

In re Application :
Singh, et al. :
Application No. 11/112,882 : PATENT TERM ADJUSTMENT
Filing or 371(c) Date: April 22, 2005 :
Dkt. No.: 72338-A/JPW/JW :

This is in response to the "PETITION TO CORRECT PATENT TERM ADJUSTMENT (PTA) INDICATED IN NOTICE OF ALLOWANCE," filed April 8, 2010. This matter is being properly treated under 37 CFR 1.705(b) as an application for patent term adjustment.

Applicants contest the reduction of patent term of 130 days in connection with the reply filed March 14, 2008. Applicants assert that the correct period of adjustment in this regard is 63 days. Applicants further assert that the application will be entitled to additional paten term adjustment pursuant to 37 CR 1.702(b).

37 CFR 1.702(b)

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].

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

37 CFR 1.704(c)(7)

Applicants assert that the reduction of patent term of 130 days in connection with the reply filed March 14, 2008 is in error. Applicants argue that the submission filed November 5, 2007 was not filed in response to the non-final Office action mailed October 11, 2007. Applicants further assert that the reply filed March 14, 2008, filed in response to the non-final Office action mailed October 11, 2007, subjects the application to a 63 day reduction pursuant to 37 CFR 1.704(b).

The application file history has been carefully reviewed and applicants' arguments in this instance are deemed persuasive. Accordingly, patent term adjustment is reduced 63 days in connection with the reply filed March 14, 2008 pursuant to 37 CFR 1.704(b).

In view thereof, the request for correction of the reduction of is GRANTED TO THE EXTENT INDICATED HEREIN.

CONCLUSION

Accordingly, as of the time of allowance, the application is entitled to a patent term adjustment of 224 days (adjustment of 327 days less reductions of 103 days).

---

[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.

Receipt is hereby acknowledged of the $200.00 patent term adjustment application fee required per 37 CFR 1.705(b)(1). See, also, 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) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

Enclosure: Adjusted PAIR Calculation

Day : Friday
Date: 8/27/2010

PALM INTRANET

Time: 16:14:53

PTA Calculations for Application: 11/112882			
Application Filing Date:	04/22/2005	PTO Delay (PTO):	327
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	170
Post-Issue Petitions:	0	Total PTA (days):	224
PTO Delay Adjustment:	67		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
100	08/27/2010	ADJUSTMENT OF PTA CALCULATION BY PTO		63	
99	08/27/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	130		
92	01/04/2010	MAIL NOTICE OF ALLOWANCE	7		82
91	12/31/2009	ISSUE REVISION COMPLETED			
90	12/31/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
89	12/17/2009	ALLOWED CASE RETURNED TO THE EXAMINER FOR CLERICAL PROCESSING			
88	12/17/2009	DOCUMENT VERIFICATION			
87	12/15/2009	NOTICE OF ALLOWABILITY			
86	08/28/2009	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
85	08/28/2009	REFERENCE CAPTURE ON IDS			
84	08/28/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
83	10/16/2009	DATE FORWARDED TO EXAMINER			
82	08/28/2009	REQUEST FOR CONTINUED EXAMINATION (RCE)			
81	10/16/2009	DISPOSAL FOR A RCE / CPA / R129			
80	09/29/2009	FINISHED INITIAL DATA CAPTURE			
79	09/09/2009	RECEIPT INTO PUBS			
78	09/09/2009	RECEIPT INTO PUBS			
77	09/04/2009	SEQUENCE FORWARDED TO PUBS ON TAPE			
76	08/28/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
75	08/25/2009	EXPORT TO INITIAL DATA CAPTURE			
74	08/28/2009	WORKFLOW - REQUEST FOR RCE - BEGIN			
73	08/21/2009	MAIL NOTICE OF ALLOWANCE			

72	08/20/2009	ISSUE REVISION COMPLETED			
71	08/20/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
70	08/20/2009	CASE DOCKETED TO EXAMINER IN GAU			
69	08/05/2009	ALLOWED CASE RETURNED TO THE EXAMINER FOR CLERICAL PROCESSING			
68	08/05/2009	DOCUMENT VERIFICATION			
67	08/03/2009	NOTICE OF ALLOWABILITY			
66	07/09/2009	DATE FORWARDED TO EXAMINER			
65	07/01/2009	AMENDMENT AFTER FINAL REJECTION			
64	04/01/2009	MAIL FINAL REJECTION (PTOL - 326)	33		59
63	02/02/2009	FINAL REJECTION			
62	10/27/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
61	10/27/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	59
60	11/18/2008	DATE FORWARDED TO EXAMINER			
59	10/27/2008	RESPONSE AFTER NON-FINAL ACTION		40	56
58	10/27/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
57	10/27/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
56	06/17/2008	MAIL NON-FINAL REJECTION			
55	06/13/2008	NON-FINAL REJECTION			
53	04/10/2008	DATE FORWARDED TO EXAMINER			
52	03/14/2008	RESPONSE AFTER NON-FINAL ACTION		130	46
51	03/14/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
50	02/26/2008	MAIL NOTICE OF INFORMAL OR NON-RESPONSIVE AMENDMENT			
47	12/06/2007	DATE FORWARDED TO EXAMINER			
46.1	11/05/2007	INFORMAL OR NON-RESPONSIVE AMENDMENT AFTER EXAMINER ACTION			
46	11/05/2007	RESPONSE AFTER NON-FINAL ACTION			
45	10/11/2007	MAIL NON-FINAL REJECTION	31		31
44	10/01/2007	NON-FINAL REJECTION			
43	10/06/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
42	05/10/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
39	08/06/2007	CASE DOCKETED TO EXAMINER IN GAU			
38	07/23/2007	CASE DOCKETED TO EXAMINER IN GAU			

37	07/10/2007	CASE DOCKETED TO EXAMINER IN GAU			
36	05/24/2007	CASE DOCKETED TO EXAMINER IN GAU			
34	05/10/2007	REFERENCE CAPTURE ON IDS			
33	05/10/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	31
32	05/23/2007	DATE FORWARDED TO EXAMINER			
31	05/10/2007	RESPONSE TO ELECTION / RESTRICTION FILED			
30	05/10/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
28	05/10/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
27	03/05/2007	MAIL RESTRICTION REQUIREMENT	256		-1
26	03/01/2007	REQUIREMENT FOR RESTRICTION / ELECTION			
25	01/05/2007	CASE DOCKETED TO EXAMINER IN GAU			
24	11/07/2006	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
23	04/22/2005	PRELIMINARY AMENDMENT			
22	10/06/2005	REFERENCE CAPTURE ON IDS			
21.7	10/06/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
21	10/06/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
20	05/31/2005	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
18	08/31/2005	APPLICATION RETURN FROM OIPE			
17	09/01/2005	APPLICATION IS NOW COMPLETE			
16	08/31/2005	APPLICATION RETURN TO OIPE			
15	08/30/2005	APPLICATION RETURN FROM OIPE			
14	08/31/2005	APPLICATION IS NOW COMPLETE			
13	08/30/2005	APPLICATION RETURN TO OIPE			
12	08/30/2005	APPLICATION DISPATCHED FROM OIPE			
11	08/30/2005	APPLICATION IS NOW COMPLETE			
10	07/28/2005	ADDITIONAL APPLICATION FILING FEES			
9	07/28/2005	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
8	07/28/2005	APPLICANT HAS SUBMITTED NEW DRAWINGS TO CORRECT CORRECTED PAPERS PROBLEMS			
7	05/31/2005	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
5	05/13/2005	CLEARED BY OIPE CSR			

4	05/12/2005	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
3	05/09/2005	IFW SCAN & PACR AUTO SECURITY REVIEW			
2	04/22/2005	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
1	04/22/2005	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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LIFE TECHNOLOGIES CORPORATION
C/O INTELLEVATE
P.O. BOX 52050
MINNEAPOLIS MN 55402

MAILED
JAN 24 2011
OFFICE OF PETITIONS

In re Application of	:	
John Carrino et al.	:	
Application No. 11/112,933	:	DECISION ON PETITION
Filed: April 22, 2005	:	
Attorney Docket No. IVGN 208	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 5, 2011, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to reply in a timely manner to the final Office action mailed, April 7, 2010, which set a shortened statutory period for reply of three (3) months. A three month extension of time was obtained under the provisions of 37 CFR 1.136(a). Accordingly, the application became abandoned on October 8, 2010. A Notice of Abandonment was mailed on December 16, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a RCE (Request for Continued Examination, with the required fee of $810, (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay. Accordingly, the RCE is accepted as being unintentionally delayed.

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

This application is being referred to Technology Center AU 1631 for appropriate action by the Examiner in the normal course of business on the reply received January 5, 2011.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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AMGEN INC.
MAIL STOP 28-2-C
ONE AMGEN CENTER DRIVE
THOUSAND OAKS CA 91320-1799

MAILED
JAN 18 2011
OFFICE OF PETITIONS

In re Application of	:	
SARIS et al.	:	DECISION ON PETITION
Application No. 11/112,973	:	
Filed: 04/22/2005	:	
Attorney Docket No. A-923A	:	

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

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue fee on or before November 26, 2010, as required by the Notice of Allowance and Fee(s) Due mailed August 26, 2010. A Notice of Abandonment was mailed on December 13, 2010.

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

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

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FABIANO LAW FIRM, P.C.
SUITE 300
12526 HIGH BLUFF DRIVE
SAN DIEGO CA 92130

MAILED
MAR 26 2012
OFFICE OF PETITIONS

In re Application of		
Keith R. MCNALLY et al.	:	
Application No. 11/112,990	:	
Filed: April 22, 2005	:	NOTICE UNDER 37 CFR. 1.28(c)
Patent No. 8,146,077	:	
Issue Date: March 27, 2012	:	
Attorney Docket No. 1004293.005 US		

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

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

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

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

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

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

MAR 28 2011

OFFICE OF PETITIONS

DECHERT LLP
P.O. BOX 390460
MOUNTAIN VIEW CA 94039-0460

In re Patent No. 7,651,698	:	
Issued: January 26, 2010	:	
Application No.: 11/113,072	:	NOTICE
Filed: April 25, 2005	:	
Attorney Docket No: **384164-005C1**	:	

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

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

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

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

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

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Patent No. : 7,237,579 B2
Ser. No. : 11/113,268
Inventor(s) : Ryu et al.
Issued : Jul. 3, 2007
Title : LIQUID CRYSTAL DISPENSING SYSTEM
Docket No. : 8734.326.C1
Re: Request for Certificate of Correction

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

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MCKENNA LONG & ALDRIDGE LLP
1900 K STREET, NW
WASHINGTON DC 20006

MAILED

APR 04 2012

OFFICE OF PETITIONS

In re Patent No. 7,237,579 :
Issue Date: July 3, 2007 :
Application No. 11/113,268 : DECISION ON PETITION
Filed: April 25, 2005 :
Attorney Docket No. 8734.326.C1 :

This is a decision on the Request For Correction Of Assignee Under 37 CFR 3.81(b) and Request For Certificate Of Correction Pursuant To 37 CFR 1.323, which is being treated as a Petition Under 37 CFR §3.81(b), filed February 13, 2012, to accept the omission of the second assignee's name. A completed Certificate of Correction Form (PTO/SB/44) was submitted with Petition.

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

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

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

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

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

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

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

This matter is being referred to the Certificates of Correction Branch for processing of a Certificate of Correction in U.S. Patent No. 7,237,579.

Cheryl Gibson-Baylor

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : **10-8-10**

TO SPE OF : ART UNIT **1711**

SUBJECT : Request for Certificate of Correction for Appl. No.: **11113403** Patent No.: **7763119**

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: _____

_____

_____

_____

_____

/Michael Barr/ **1711**
SPE **Art Unit**

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): 11/113,666	Patent Number (if applicable):
First Named Inventor: SAKAMOTO	Title of Invention: DEODORANT FIBER AND FIBROUS ARTICLE AND PRODUCTS MADE THEREOF

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3. FOR PATENTEES WHO NEED TO FILE A PETITION TO ACCEPT A DELAYED MAINTENANCE FEE PAYMENT UNDER 37 CFR 1.378(c):

   a. The maintenance fee payment was required to have been paid after March 10, 2011.

   b. A petition under 37 CFR 1.378(c) (using USPTO form PTO/SB/66 – Petition to Accept Unintentionally Delayed Payment of Maintenance Fee in an Expired Patent (37 CFR 1.378(c))) is being promptly filed accompanied by the applicable maintenance fee payment (but not the surcharge under 37 CFR 1.20(i)).

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

   d. The USPTO is requested to *sua sponte* waive the surcharge in 37 CFR 1.20(i) for accepting a delayed maintenance fee payment.

   e. It is acknowledged that the petition to accept a delayed maintenance fee payment under 37 CFR 1.378(c) must be filed by March 11, 2012, in order to be entitled to a waiver of the surcharge under 37 CFR 1.20(i).

   f. It is acknowledged that the petition to accept a delayed maintenance fee payment under 37 CFR 1.378(c) must be filed within twenty-four months from the expiration date of the patent. *See* 35 U.S.C 41(c).

   g. This request and the petition to accept a delayed maintenance fee payment under 37 CFR 1.378(c) is being submitted via EFS-Web or by mail directed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

4. FOR NONPROVISIONAL PATENT APPLICATIONS FILED WITHOUT AN EXECUTED OATH OR DECLARATION OR PAYMENT OF THE BASIC FILING FEE, SEARCH FEE, AND/OR EXAMINATION FEE:

   a. The nonprovisional patent application was filed on or after March 11, 2011, and prior to April 12, 2011.

   b. The late filing of the oath or declaration or the basic filing fee, search fee, or examination fee was due to the effects of the earthquake and/or tsunami of March 11, 2011.

   c. The USPTO is requested to *sua sponte* waive the surcharge set forth in 37 CFR 1.16(f) for the late filing of the oath or declaration or basic filing fee, search fee, and/or examination fee.

   d. This request, together with the executed oath or declaration or the basic filing fee, search fee, or examination fee, as well as the reply to the Notice to File Missing Parts, is being submitted via EFS-Web or by mail directed to Mail Stop Missing Parts, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Signature	Date April 28, 2011
Name (Print/Typed) Douglas P. Mueller	Practitioner Registration Number 30,300

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

☐ *Total of 1 forms are submitted.

Privacy Act Statement

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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HAMRE, SCHUMANN, MUELLER & LARSON, P.C.
P.O. BOX 2902
MINNEAPOLIS MN 55402-0902

MAILED

MAY 02 2011

OFFICE OF PETITIONS

In re Application of	:	
Sakamoto et al.	:	
Application No. 11/113,666	:	DECISION ON PETITION
Filed: April 25, 2005	:	
Attorney Docket No. 13438.0010US01	:	

This is a decision on the request filed April 28, 2011, seeking relief under the provisions of "Relief Available to Patent and Trademark Applicants, Patentees and Trademark Owners Affected by the Catastrophic Events of March 11, 2011 in Japan," 1365 Off. Gaz. Pat. Office 170 (April 19, 2011).

The request for relief is **GRANTED**.

In the above-identified application, an Office action was mailed on February 1, 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 1611 for re-mailing the Office action of February 1, 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

September 30, 2010

Patent No. : 7,621,508 B2
Appl. No. : 11/113,687
Inventor(s) : Alexander Wagner, et al.
Issued : November 24, 2009
Title : **METHOD AND DEVICE FOR STORING A TRACTION CHAIN**
Docket No. : **8034-94199**

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

Thomas R. Vigil Law Offices
319 Bluff Court
Barrington IL 60010

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED
APR 04 2011
OFFICE OF PETITIONS

Thomas R. Vigil Law Offices
319 Bluff Court
Barrington IL 60010

In re Patent No. 7,621,508 :
Issue Date: November 24, 2009 :
Application No. 11/113,687 : DECISION ON PETITION
Filed: April 25, 2005 :
Attorney Docket No. 8034-94199 :

This is a decision on the Request, filed October 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 submitted with Petition.

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

Petitioner requests that the present Petition was submitted to correct the assignee's on the previously submitted PTOL 85B and such error was inadvertent. Accordingly, petitioner requests, in effect, that the Title Page of the above-identified patent be corrected, via issuance of Certificate of Correction, to correct the assignee's name identified thereon from:

"Motus Engineering GmbH & Co. KG, Fronhausen, (DE)"

to:

--Accurro GmbH, Fronhausen, (DE)--

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. Further, Office assignment records are consistent with the requested correction. Accordingly, since the Petition complies with the provisions of 37 CFR §3.81(b), it is appropriate for the Office to issue a Certificate of Correction in accordance with the content of the Form PTO/SB/44 submitted with Petition.

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

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

This matter is being referred to the Certificates of Correction Branch for processing of a Certificate of Correction in U.S. Patent No. 7,621,508.

Cheryl Gibson-Baylor

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20111024

DATE : October 24, 2011

TO SPE OF : ART UNIT 2462

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

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

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

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

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

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

Note your decision on the appropriated box.

☒ **Approved** All changes apply.

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

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

Comments:

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20111024

DATE : October 24, 2011

TO SPE OF : ART UNIT 2462

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

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

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

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

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

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

Note your decision on the appropriated box.

☒ **Approved** All changes apply.

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

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

Comments:

/SEEMA S. RAO/ SPE, AU 2462

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

JUN 23 2011

OFFICE OF PETITIONS

Jack Paulus
28 Lost Valley Dr.
Orinda CA 94563

In re Application of	:	
Jack R. PAULUS	:	ON PETITION
Application No. 11/113,808	:	
Filed: April 25, 2005	:	
Atty. Docket No.: JP-P001		

This is a decision on the petition under 37 CFR 1.137(b), filed April 29, 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 went abandoned for failure to reply in a timely manner to the final Office action mailed May 10, 2010, which set a shortened statutory period for reply of three (3) months. No appropriate reply was received. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. The application became abandoned on August 11, 2010. A Notice of Abandonment was mailed on January 4, 2011.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) an appropriate 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 Commissioner may require additional information. *See*, MPEP 711.03(c)(III)(C) and (D). The instant petition does not satisfy item (1) for the following reason: under MPEP 711.03(c)(2)(b)

> "A reply under 37 CFR 1.113 to a final action must include a request for continued examination (RCE) under 37 CFR 1.114 or

cancellation of, or appeal from the rejection of, each claim so rejected."

The instant petition does not contain an RCE, cancellation of each rejected claim, or appeal from each rejected claim. Whereas Applicant has submitted an Amendment after Final, the amendment fails to place the application in condition for allowance. The submitted reply is not appropriate, and the petition cannot be granted. See the enclosed PTOL-303.

Petitioner has appointed a representative to conduct all business before the Patent and Trademark Office (Office). The Office will not engage in dual correspondence with petitioner and petitioner's representative. Accordingly, petitioner must conduct all future correspondence with this Office through the representative of record. If petitioner no longer wishes to be represented by the representative of record, then a revocation of the power of attorney or authorization of agent must be submitted. A correspondence address must be included on the correspondence instructing the Office where all future communications should be mailed.

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

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

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

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

General inquiries relating to this decision should be directed to Robert DeWitty (571-272-8427).

Anthony Knight
Director
Office of Petitions

Encl. Advisory Action Before the filing of an Appeal Brief, PTOL-303.

Advisory Action Before the Filing of an Appeal Brief	Application No. 11/113,808	Applicant(s) PAULUS, JACK R.	
	Examiner ALAN CHOU	Art Unit 2451	

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

THE REPLY FILED 29 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 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: 1-18.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

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

REQUEST FOR RECONSIDERATION/OTHER

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

Continuation of 13. Other: The new limitation raise new issues that would require further search and consideration.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED
OCT 12 2011
OFFICE OF PETITIONS

Jack Paulus
28 Lost Valley Dr.
Orinda CA 94563

In re Application of	:	
Jack R. PAULUS	:	ON PETITION
Application No. 11/113,808	:	
Filed: April 25, 2005	:	
Atty. Docket No.: JP-P001		

This is a decision on the Request for Continued Examination (RCE) filed September 22, 2011, that is being treated as a renewed petition under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to reply in a timely manner to the final Office action mailed May 10, 2010 (outstanding Office action), 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 on August 11, 2010. A Notice of Abandonment was mailed on January 4, 2011.

The petition satisfies the conditions for revival pursuant to 37 CFR 1.137(b) by including (1) a reply in the form of a Request for Continued Examination (RCE) and RCE fee, and submission under 37 CFR 1.114, (2) a petition fee of $810, and (3) a statement of unintentional delay. The reply to the outstanding Office action is accepted as being 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 2451 for consideration of the RCE filed September 22, 2011.

Ramesh Krishnamurthy

for Anthony Knight
Director
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

OCT 19 2011

OFFICE OF PETITIONS

Jack Paulus
28 Lost Valley Dr.
Orinda CA 94563

In re Application of

Jack R. Paulus
Application No. 11/113,808
Filed: April 25, 2005
Attorney Docket No. **JP-P001**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed August 1, 2011 and resubmitted on September 22, 2011.

The request is **APPROVED**.

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

The request was signed by Rupak Nag on behalf of all attorneys of record who are associated with the above-identified application.

All attorneys/agents associated with the above-identified application have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future communications from the Office will continue to be directed to the first named inventor Jack Paulus at the above-listed address until otherwise notified by applicant.

There is no outstanding Office action mailed that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4584.

JoAnne Burke
Petitions Examiner
Office of Petitions

cc: Rupak Nag
4854 Oakland Avenue South
Minneapolis, MN 55407

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
11/113,808	04/25/2005	Jack R. Paulus	JP-P001

CONFIRMATION NO. 7975

POWER OF ATTORNEY NOTICE

Jack Paulus
28 Lost Valley Dr.
Orinda, CA 94563

OC000000050434224

Date Mailed: 10/18/2011

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/01/2011.

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

/jlburke/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Helen Lee
Chiron Corporation
Intellectual Property -R440, P.O. BOX 8097
Emeryville CA 94662-8097

MAILED
OCT 28 2011
OFFICE OF PETITIONS

In re Application of	:	
Derek O'Hagan et al.	:	
Application No. 11/113,861	:	DECISION ON PETITION
Filed: April 25, 2005	:	
Attorney Docket No. PP001388.0233	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 13, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to properly reply in a timely manner to the final Office action mailed, January 14, 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 application became abandoned on April 15, 2011. A Notice of Abandonment was mailed on August 15, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a RCE (Request for Continued Examination, with the required fee of $930, (2) the petition fee of $1,860, and (3) a proper statement of unintentional delay. Accordingly, the RCE is accepted as being unintentionally delayed.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1,270 extension of time fee submitted with the petition on October 13, 2011 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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

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

This application is being referred to Technology Center AU 1648 for appropriate action by the Examiner in the normal course of business on the reply received October 13, 2011.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: David B. Bonham
251 North Avenue West, Suite 201
Westfield, NJ 07090

UNITED STATES 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	:	
Cohen et al.	:	DECISION ON PETITION
Application No. 11/114,245	:	TO WITHDRAW
Filed: April 25, 2005	:	FROM RECORD
Attorney Docket No. QQ1-0193US	:	

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 December 21, 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

UNITED STATES 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. 7064822
Issue Date: June 20,2006
Application No. 11114300
Filed: April 25,2005
Attorney Docket No. 008484USAD02/BOX012-2D

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

This is a decision on the electronic petition, filed September 16,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of September 16,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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)
7064822	2006-06-20	11114300	2005-04-25	008484USAD02/BOX012-2D

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

◯ A sole patentee

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

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

◯ The assignee of record of the entire interest

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

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/omkar suryadevara/	Date (YYYY-MM-DD)	2010-09-16
Name	Omkar Suryadevara	Registration Number	36320

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW Oct-10

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

MAILED

OCT 07 2010

OFFICE OF PETITIONS

In re Application of	:	
Pollman et al.	:	
Application Number: 11/114422	:	ON PETITION
Filing Date: 04/26/2005	:	
Attorney Docket Number: 12144-0021001	:	

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

The petition is **GRANTED**.

This application became abandoned on February 10, 2010, for failure to reply to the Notice of Allowance and Fee(s) Due mailed on November 9, 2009, which set a three (3)-month statutory period for reply. Notice of Abandonment was mailed on March 1, 2010. On March 4, 2010, a petition to withdraw the holding of abandonment was filed. On May 27, 2010, the petition was dismissed.

On July 12, 2010, the subject petition to revive was filed.

The application is forwarded to the Office of Data Management for processing into a patent.

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

DIWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

MAY 23 2011

In re Application of
DRORY, TAL et al.
Application No.: 11/114,681
Filing or 371(c) Date: April 25, 2005
Attorney Docket Number: 200401949-1

DECISION ON PETITION

This is a decision on the Petition To Withdraw Holding Of Abandonment, received in the United States Patent & Trademark (USPTO) on May 5, 2011.

The petition is **DISMISSED**.

Any request for reconsideration of this decision, or as explained below, filing a petition seeking revival under 37 CFR § 1.137, must be filed within TWO (2) MONTHS from the mail date of this decision.

The above-identified application was held abandoned for applicant's failure to timely pay the issue fee, as required in the Notice of Allowance and Fee(s) Due mailed January 7, 2011. The Notice of Abandonment was mailed April 27, 2011.

The Office acknowledges receipt of Part B – Fee(s) Transmittal on January 13, 2011, as evidenced by the "Office Date" stamp thereon. However, without the inclusion of the Deposit Account Number on the form there was no authorization to charge the required fees.

As an additional aid to applicants, the rule as proposed has been amended to include §§ 1.311(b)(1) and (b)(2) that can act as safety mechanisms. Where it is clear that an applicant actually intends to pay the issue fee and publication fee (if required) such as by submitting an incorrect issue fee or publication fee, or a fee transmittal form (or letter) for payment of the fees, a request to charge the correct issue fee or any publication fee due to any deposit account identified in a previously filed authorization to charge **such** fees, will be allowed to act a payment of the correct issue fee.

Petitioner should review the amended rules pertaining to general authorization to pay fees. See 65 FR 54647 September 8, 2000, revised 69 FR 56481 September 21, 2004, effective September 21, 2004. Unfortunately, the application file does not reveal a previously filed authorization to charge **such** fee(s) or specifically the issue fee.

In light of the non-compliance with 37CFR 1.25, the holding of abandonment cannot be withdrawn.

Applicant may seek relief by filing a petition for Revival of Abandoned Application under CFR § 1.137 (a) or (b). (Forms are available at USPTO website http://www.uspto.gov)

Under 37 CFR 1.137(a), a petition for the revival of an ***unavoidable*** abandoned application
Under 37 CFR 1.137(b), a petition for the revival of an ***unintentionally*** abandoned application

Further inquires with respect to filing a petition under 37 CFR § 1.137 may be directed to the Office of Petitions at 571-272-3282 or addressed as follows:

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

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

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

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 756-1547.

Kay D. Pinkney
Application Assistance Unit
Office of Data Management

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

JUN 27 2011

OFFICE OF PETITIONS

HEWLETT-PACKARD COMPANY
INTELLECTUAL PROPERTY ADMINISTRATION
3404 E. HARMONY ROAD
MAIL STOP 35
FORT COLLINS, CO 80528

In re Application of	:	
Drory et al.	:	
Application No. 11/114,681	:	DECISION ON PETITION
Filed: April 25, 2005	:	
Attorney Docket No. 200401949-1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 8, 2011, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue fee on or before April 7, 2011, as required by the Notice of Allowance and Fee(s) Due mailed January 7, 2011. Accordingly, the application became abandoned on April 8, 2011. A Notice of Abandonment was mailed April 27, 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, (2) the petition fee of $1,620, and (3) an 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 the Office of Data Management for processing into a patent.

A. Kelley-Collier

Alicia Kelley-Collier
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

1-13-2011

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

Patent No. : 7,725,329 B2
Serial No. : 11/114,692
Inventor(s) : David H. Kil, et. al.
Issued : May 25, 2010

Re: Request for Certificate of Correction

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

Respecting the alleged error in col. 7, line 27, the word cannot be found in the printed patent.

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

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

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

James C. Eaves, Jr.
Greenebaum Doll & McDonald
101 South 5th Street, 3500 National City Tower
Louisville, Kentucky 40202

ej

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ENTELOS, INC.
c/o Law Offices of Karen E. Flick
P.O. Box 515
El Granada CA 94018-0515

MAILED

NOV 12 2010

OFFICE OF PETITIONS

In re Application of	:	
Georges Natsoulis et al.	:	
Application No. 11/114,998	:	DECISION ON PETITION
Filed: April 25, 2005	:	TO WITHDRAW
Attorney Docket No. ENTL-052.US1	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 5, 2010.

The request is **NOT APPROVED.**

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

Accordingly, the request to withdraw from record cannot be approved because the request to change the correspondence address is not that of: (1) the first named inventor; or (2) an assignee of the entire interest under 37 C.F.R 3.71. If an assignee has ownership in this application, then a current Statement under 37 CFR 3.73(b) or a copy of the actual assignment must be provided with a renewed request.

It should also be noted that the attorneys of record were appointed by customer. The request indicates that only attorney Karen E. Flick will be withdrawing from record and all other attorneys/agents will remain of record. If no boxes are checked on a renewed request for withdrawal, the Office will assume that this was correct.

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

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272- 4618.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

MAILED

OCT 18 2010

OFFICE OF PETITIONS

In re Patent No. 7,413,652	:	
Issue Date: August 19, 2008	:	
Application No. 11/115,076	:	NOTICE
Filed: April 26, 2005	:	
Attorney Docket No. 37272-505D02US	:	

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 Files Repository.

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

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

October 20, 2010

Jonathan P. Osha
OSHA . LIANG LLP
909 Fannin Street
Suite 3500
Houston, TX 77010

Patent No.	: 7,484,575 B2
Ser. No.	: 11/115,481
Inventor(s)	: Jeremy R. Angelle, et al.
Issued	: February 3, 2009
Docket No.	: 17456/019001
Title	: **CONDUCTOR PIPE STRING DEFLECTOR AND METHOD**

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

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

OSHA LIANG LLP - FRANK'S INTERNATIONAL
TWO HOUSTON CENTER
909 FANNIN STREET, SUITE 3500
HOUSTON TX 77010

MAILED
MAY 27 2011
OFFICE OF PETITIONS

In re Patent No. 7,484,575	:	
Issue Date: February 03, 2009	:	
Application No. 11/115,481	:	DECISION ON PETITION
Filed: April 27, 2005	:	
Attorney Docket No. 17456/019001	:	

This is a decision on the petition, filed, April 25, 2011, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee's address 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 address is "Lafayette, Louisiana" and that an incorrect address 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 "Lafayette, Louisiana" is the assignees address 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
www.uspto.gov

April 5, 2012

Christian D. Scholz
Weaver Austin Villeneuve & Sampson LLP
P.O. Box 70250
Oakland, CA 94612-0250

Patent No: 8,137,465 B1
Application No: 11/115,576
Applicant: Krishna Shrinivasan, et al.
Issued: March 20, 2012
Title: **SINGLE-CHAMBER SEQUENTIAL CURING OF SEMICONDUCTOR WAFERS**

Request for Certificate of Correction:

Consideration has been given to your request for the issuance of a certificate of correction for the above- identified patent under the provisions of Rule 1.323.

A petition under C.F.R. 1.182 is required to correct the alleged errors in incorrect inventor's name or order of the inventor's names, since inventor's names are printed solely in accordance with the typed/printer names (not the signatures), and since unsigned declarations, non-initialed and non-dated changes are not taken into consideration. Therefore, no correction is in order here under the provisions of Rule 1.323, unless a petition is granted (*See M.P.E.P.605.04 b)*.

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

Any petition under 1.182 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

Virginia Tolbert
For Mary Diggs, Supervisor
Decisions and Certificate of Correction
(571) 272-0460

vt

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3-9-11

TO SPE OF : ART UNIT 2125

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/115,751 Patent No.: 7308334

CofC mailroom date: 2-24-11

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

FOR IFW FILES: Check drawings

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

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

FOR PAPER FILES:

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

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

Chris Yaw G

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: _____

PAUL RODRIGUEZ
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

SPE

2123
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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SEP 20 2010
OFFICE OF PETITIONS

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

In re Patent No. 7,633,764	:	DECISION ON REQUEST
Mahajan et al.	:	FOR
Issue Date: 12/15/2009	:	RECONSIDERATION OF
Application No. 11/115,769	:	PATENT TERM ADJUSTMENT
Filing or 371(c) Date: 04/27/2005	:	
Atty Docket No.	:	
15936US01	:	

This is a decision on the REQUEST FOR RECONSIDERATION OF USPTO RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH* filed on May 27, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by five hundred fifty-four (554) days.

The petition to correct the patent term adjustment is **DISMISSED** with respect to making any change in the patent term adjustment determination under 35 U.S.C. § 154(b) of five hundred fifty-three (553) 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 April 28, 2008, and ends on July 29, 2008, the day before the RCE was filed, and is 93 days, not 94 days as asserted by patentee. See 35 U.S.C. 154(b)(1)(B)(i).

Accordingly, no change will be made to the patent term adjustment of 553 (476 days Office delay + 93 days three years delay – 16 days of applicant delay) days indicated in the Decision on Request for Recalculation of Patent Term Adjustment in View of *Wyeth* and Notice of Intent to Issue Certificate of Correction, mailed on April 28, 2010.

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.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

OCT 29 2010

OFFICE OF PETITIONS

BRINKS HOFER GILSON & LIONE
PO BOX 10395
CHICAGO IL 60610

In re Patent No. 7,576,825	: DECISION ON
Tae Woo Jung	: REQUEST FOR RECONSIDERATION
Application No. 11/115,793	: of PATENT TERM ADJUSTMENT
Issue Date: August 18, 2009	: and
Filed: April 27, 2005	: NOTICE OF INTENT TO ISSUE
Attorney Docket No. 10125-4179	: CERTIFICATE OF CORRECTION

This is a decision on the petition under 37 CFR 1.705(d), filed May 18, 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 by nine hundred fifty-five (955) days, not one thousand, three hundred sixty-five (1365) days as indicated on the patent.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by nine hundred fifty-five (955) days is **GRANTED**.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e).

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 fifty-five (955)** 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 : 7,576,825 B2

DATED : **August 18, 2009**

INVENTOR(S) : Jung

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 1365 days.

Delete the phrase "by 1365 days" and insert – by 955 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

MAILED

SEP 2 0 2010

OFFICE OF PETITIONS

In re Application :
Joonsuk Kim :
Application No. 11/115,804 : DECISION ON APPLICATION
Filed: April 26, 2005 : FOR PATENT TERM ADJUSTMENT
Attorney Docket No. 16498US02 :

This is a decision on the APPLICATION FOR RECONSIDERATION OF THE DETERMINATION OF PATENT TERM ADJUSTMENT UNDER 35 U.S.C. 154(b) ACCOMPANYING THE NOTICE OF ALLOWANCE (37 CFR § 1.705) filed on July 21, 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]

To the extent that applicant otherwise requests reconsideration of the patent term adjustment at the time of the mailing of the notice of allowance, the application for patent term adjustment is **DISMISSED**.

Applicants contest the application(s) of 37 CFR § 1.704(b) to reduce the patent term adjustment by two (2) days in that the Office action response was filed on the first business day after a deadline falling on a weekend or holiday and thus was not late.

Applicant's arguments have been considered, but not found to be persuasive.

Rule 1.704(b) sets forth, in pertinent part:

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

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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.

A Final Office Action was mailed May 29, 2009 and the response was therefore due on August 29, 2009. August 29, 2009 was a weekend and thus, the response was received on August 31, 2009 which is three months and two days later. As such, a reduction of two days was assessed. Patentees have argued that this is improper, as August 29, 2009 fell on a weekend. However, Petitioner will note that 35 U.S.C. 154(b)(2)(C)(ii)[2] does not require that a reply be filed in the Office within its three (3) month grace period, but simply specifies that there is a patent term adjustment reduction if a reply is not filed within this three (3) month period. Therefore, the "carry-over" provisions of 35 U.S.C. § 21(b)[3] does not apply to the three (3) month period in 35 U.S.C. 154(b)(2)(C)(ii).

In view thereof, the patent term adjustment was properly stated at the time the Notice of Allowance was mailed.

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 acknowledges the submission of the required fee of $200.00 set forth in 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 Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

Anthony Knight
Director
Office of Petitions

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[2] "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."

[3] "When the day, or the last day, for taking any action or paying any fee in the United States Patent and Trademark Office falls on Saturday, Sunday, or a Federal holiday within the District of Columbia, the action may be taken, or fee paid, on the next succeeding secular or business day."

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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COMPUTER PATENT ANNUITIES
225 REINEKERS LANE
SUITE 400
ALEXANDRIA VA 22314

MAILED
MAR 19 2012
OFFICE OF PETITIONS

In re Patent No. 7,563,864 :
Issue Date: July 21, 2009 :
Application No. 11/115,935 : NOTICE
Filed: April 26, 2005 :
Attorney Docket No. ALVN-006

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

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

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

Inquiries related to this communication should be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Bozicevic Field & Francis LLP
1900 University Avenue, Suite 200
East Palo Alto, CA 94303

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

MAILED
MAY 20 2011
OFFICE OF PETITIONS

In re Application of :
Guy et al. :
Application No. 11/115,983 : ON APPLICATION FOR
Filed: April 27, 2005 : PATENT TERM ADJUSTMENT
Atty Docket No. H0664.70037US00:

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR § 1.705(b), filed April 25, 2011. Applicants submit that the correct patent term adjustment to be indicated on the patent is five hundred thirteen (513) days, not twenty (20) 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 receipt the required $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

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

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

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

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MELVIN K. SILVERMAN & ASSOCS PC
500 WEST CYPRESS CREEK ROAD
SUITE 350
FT. LAUDERDALE FL 33309

MAILED
OCT 22 2010
OFFICE OF PETITIONS

In re Application of	:	
Lakdas NANAYAKKARA	:	
Application No. 11/116,092	:	ON PETITION
Filed: April 27, 2005	:	
Attorney Docket No. 1070.25	:	

This is a decision on the petitions under the unintentional provisions of 37 CFR 1.137(b), filed July 2, 2010 and July 14, 2010 to revive the above-identified application.

The petition is **DISMISSED**.

The application became abandoned for failure to reply in a timely manner to the final Office action mailed, July 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 October 23, 2008.

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

With regard to item (1): The petitions filed July 2, 2010 and July 14, 2010, did not include the proper reply to the Office action dated July 22, 2008. In this regard, the petition filed July 2, 2010, indicated a response was filed, however, could not be accepted because it was incomplete. The petition filed July 14, 2010, indicated a continuation was filed, however, a review of the Office record does not show a continuation was filed. Accordingly, the submissions filed with the petitions could not be accepted as being in compliance with 37 CFR 1.137(b).

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MELVIN K. SILVERMAN AND ASSOCS PC
500 WEST CYPRESS CREEK ROAD
SUITE 350
FT. LAUDERDALE FL 33309

MAILED
NOV 22 2010
OFFICE OF PETITIONS

In re Application of	:	
Lakdas NANAYAKKARA	:	
Application No. 11/116,092	:	ON PETITION
Filed: April 27, 2005	:	
Attorney Docket No. 1070.25	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed November 5, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the final Office action mailed, July 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 October 23, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a 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. 12/940,211, filed November 5, 2010.

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

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

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Paper No.

J. Jason Link
Kilpatrick Stockton LLP
1001 West Fourth Street
Winston-Salem NC 27101

MAILED
SEP 27 2010
OFFICE OF PETITIONS

In re Application of	:	
Xuan Fei Wu	:	DECISION
Application No. 11/116,136	:	ON APPLICATION FOR
Filed: April 27, 2005	:	PATENT TERM ADJUSTMENT
Atty Docket No. 00568/314069	:	
Title: CIGARETTE PACKAGE	:	

This is in response to the "Petition Regarding Patent Term Adjustment (PTA) Indicated in Notice of Allowance," filed on September 9, 2010, which is being treated as a petition pursuant to 37 C.F.R. § 1.705(b). Applicant submits that the correct patent term adjustment to be indicated on the patent is eight hundred and eighty-six (886) days, not four hundred and thirty-four (434) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction solely on the basis that the Office will take in excess of three years to issue this patent.

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

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As

such, the Office cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

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

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

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

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 regarding this decision should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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

7/20/2011

Patent No. :7470081
Inventor(s) :Yutaka MIYAHARA et al.
Issued :12/30/2009
Title :JOINT STRUCTURE BETWEEN MEMBERS
Atty.doc./File No.

Request for Certificates of Correction

Consideration has been given to your request for the issuance of a Certificate of Correction, for the above – identified patent under the provisions of CFR 1.322.

Inspection of the application for the patent reveals that the SPE has denied your request because of identified language is not correct for claim 3, line 10. 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

STUDEBAKER & BRACKETT PC
1890 PRESTON WHITE DRIVE, SUITE105
RESTON, VA 20191

HR

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/2/09

TO SPE OF : ART UNIT 3679 Stodola Daniel (SPE)

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/116212 Patent No.: 7470081

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: Language to be changed not found on line 10 of claim 3 & this line shouldn't read as has been indicated. Apparently, part of line 10 has been dropped & replaced with part of line 11. Thus, the certificate of correction as filed is incorrect. Notwithstanding the failure to properly identify the printing error & correction to be made, it appears that "pan" @ Col. 10, claim 3, line 10, is a printer error & should be deleted such that claim 3, line 10, would read --distal end of the second member into the through--.

/Daniel P. Stodola/ — SPE

3679 — Art Unit

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

9/19/2011

Patent No. :7470081
Inventor(s) :Yutaka Miyahara et al.
Issued :12/30/2008
Title :Joint Structure Between Members
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 language to be changed not found on line 10 of claim 3 & this line shouldn't read as has been indicated. Apparently, part of line 10 has been dropped & replaced with part of line 11. Thus, the certificate of correction as filed is incorrect. Notwithstanding the failure to properly identify the printing error & correction to be made, it appears that "pan & col. 10, claim 3, line 10 is a printer error & should be deleted such that claim 3, line 10 would read—distal end of the second member into through--. 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

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HR

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GOODMAN, L.L.P.
1300 19TH STREET, N.W.
SUITE 600
WASHINGTON, DC 20036

MAILED

AUG 27 2010

OFFICE OF PETITIONS

In re Application of	:	
Warren, et al.	:	
Application No. 11/116,234	:	ON APPLICATION FOR
Filed: April 28, 2005	:	PATENT TERM ADJUSTMENT
Atty Docket No. 56550	:	

This is in response to the REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. 1.705(b), filed April 30, 2010. Applicants submit that the correct patent term adjustment to be indicated on the patent is four hundred fifty-six (456) days, not one hundred seventy-two (172) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

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

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentees are entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). This is true even in this instance where a request for continued examination (RCE) was filed. The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a

determination on the correctness of the patent term adjustment until the patent has issued.

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

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

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

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

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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

UNITED STATES 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
AUG 15 2011
OFFICE OF PETITIONS

In re Patent No. 7,220,175	:	
Issue Date: May 22, 2007	:	
Application No. 11/116,349	:	NOTICE
Filed: April 28, 2005	:	
Attorney Docket No. 5900/0224PUS1	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 on July 14, 2011.

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

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

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

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

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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VOLPE AND KOENIG, P.C.
UNITED PLAZA
30 SOUTH 17TH STREET
PHILADELPHIA PA 19103

MAILED
SEP 20 2011
OFFICE OF PETITIONS

In re Patent No. 7,343,909	:	
Issue Date: March 18, 2008	:	
Application No. 11/116,595	:	NOTICE
Filed: April 28, 2005	:	
Attorney Docket No. NPS-PT010.1	:	

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 Diane Goodwyn at (571) 272-6735.

Thurman K. Page
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 8/9/10 **Paper No.:** —

TO SPE OF : ART UNIT 2874

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/116639 Patent No.: 7309174 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: The requested changes/corrections are approved.

Uchaule 2874

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110128

DATE : January 28, 2011

TO SPE OF : ART UNIT 2481

SUBJECT : Request for Certificate of Correction on Patent No.: 7,821,582

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:

All changes are approved.

/Peter-Anthony Pappas/
Supervisory Patent Examiner, Art Unit 2481

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 02 2010
OFFICE OF PETITIONS

KATTEN MUCHIN ROSENMAN LLP
(C/O PATENT ADMINISTRATOR)
2900 K STREET NW, SUITE 200
WASHINGTON DC 20007-5118

In re Application of
Zinobile et al.
Application No. 11/116,771
Filed: April 28, 2005
Attorney Docket No. 10437.0073.CPUS03

: DECISION ON PETITION

This is a decision on the petitions filed under provisions of 37 CFR 1.137(b) and 1.181, filed August 17, 2010 and September 2, 2010.

The petition under 37 CFR 1.137(b) is **DISMISSED AS MOOT.**
The petition under 37 CFR 1.181 is **GRANTED** to the extent indicated.

This application became abandoned for failure to timely submit the issue and publication fees, as required by the Notice of Allowance and Fee (s) Due, which was mailed July 28, 2008. The Notice of Allowance and Fee (s) Due and the Notice of Allowability set a three (3) month statutory period for reply. Extensions of time were not available under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on October 28, 2008. A Notice of Abandonment was mailed on November 20, 2008.

Petitioner asserts that the Notice of Allowance and Notice of Allowability dated July 28, 2008 was not received.

A review of the written record indicates an irregularity in the mailing of the Notice of Allowance of July 28, 2008. In this regard, the Office received a change of address on June 16, 2008, prior to the mailing of the Notice of Allowance of July 28, 2008. Office records were improperly updated to reflect this new change of address. Accordingly, as the Office action was mailed to an incorrect address, the Notice of Abandonment mailed November 20, 2008 is hereby vacated and the holding of abandonment withdrawn.

However, the Notice of Abandonment will not be expunged from the record. The petition fee will be refunded.

In light of the submission of the issue and publication fees, the application is being referred to the Office of Data Management for further processing.

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

Charlema Grant
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11-22-11

TO SPE OF : ART UNIT 1745

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/116,884 Patent No.: 8016960

CofC mailroom date: 11-9-11

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

FOR IFW FILES: Check Claims

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

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

FOR PAPER FILES:

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

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

C Yang

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: _____

PHILIP TUCKER

SPE

1745

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

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

MAILED
FEB 02 2011
OFFICE OF PETITIONS

In re Application of	:	
Spinelli et al.	:	
Application No. 11/116,927	:	DECISION ON PETITION
Filed: April 28, 2005	:	
Attorney Docket No. IJ0082USNA	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 2, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before February 2, 2010, as required by the Notice of Allowance and Fee(s) Due mailed November 2, 2009. Accordingly, the date of abandonment of this application is February 3, 2010. A Notice of Abandonment was mailed February 24, 2010.

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

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

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

Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

MAILED

SEP 02 2010

OFFICE OF PETITIONS

Sal Guerrieri
251 West 30th Street
#3FW
New York NY 10001

In re Application of	:	
Guerrieri et al.	:	
Application No. 11/117,015	:	DECISION ON PETITION
Filed: April 28, 2005	:	UNDER 37 C.F.R. § 1.137(B)
Attorney Docket No.: jp3-m101	:	
Title: WRIST REST	:	

This is a decision on the petition pursuant to 37 C.F.R. § 1.137(b) to revive the above-identified application, filed on February 16, 2010.

This petition is **DISMISSED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Missing Parts (notice), mailed June 7, 2005, which set a shortened statutory period for reply of two months. No response was received, and no extensions of time under the provisions of 37 C.F.R. § 1.136(a) were requested. Accordingly, the above-identified application became abandoned on August 8, 2005. A notice of abandonment was mailed on September 13, 2006.

An original petition pursuant to 37 C.F.R. § 1.137(a) was submitted on August 6, 2009 along with the petition fee. The original petition was dismissed via the mailing of a decision on September 8, 2009.

A renewed petition pursuant to 37 C.F.R. § 1.137(a) was submitted on October 13, 2009 along with $51. The renewed petition was dismissed via the mailing of a decision on January 25, 2010.

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 included the petition fee, $84, and the proper statement of unintentional delay.

Petitioner has met requirements one through three of Rule 1.137(b). The fourth requirement of Rule 1.137(b) is not applicable, as a terminal disclaimer is not required.[1]

Regarding the first requirement, the requirement has not been satisfied because Petitioner did not submit the required reply to the Office action. The required reply is the reply sufficient to have avoided abandonment, had such reply been timely filed.[2] In order for the application to be revived, petitioner must submit a reply which satisfies 37 C.F.R. § 1.137(a)(1) (*i.e.*, the required fees in full). The petition was not accompanied by this reply:

- The notice of June 7, 2005 indicated that Applicant owed $100 for 2 independent claims over 3 and $25 for 26 total claims over 20. This totals $125.
- On October 13, 2009, Applicant submitted $25 and $26, which totals $51.
- On February 17, 2010, Applicant submitted an additional $84.

It follows that do date, **Applicant has submitted $135**. The current fees that are due for a small entity are $110 for

1 See Rule 1.137(d).
2 See MPEP § 711.03(c).

independent claims in excess of three and $26 for claims in excess of 20. As such, **$136 is due**. Therefore, **the submission is $1 short.**

On renewed petition, Petitioner should include $1.

Notice regarding fees: historically the fees that the USPTO charges for doing business increase at the beginning of each fiscal year (October 1, 2010). **Please be advised that applicants should monitor the USPTO website for future updates whenever any necessary money is sent.** More information can be obtained here: http://www.uspto.gov/web/offices/ac/qs/ope/fees.htm.

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

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail,[3] hand-delivery,[4] or facsimile.[5] Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web.[6]

If responding by mail, Petitioner is advised not to place the undersigned's name on the envelope. Only the information that appears in the footnote should be included - adding anything else to the address will delay the delivery of the response to the undersigned.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[7] All other inquiries

---

3 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
4 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
5 (571) 273-8300 - please note this is a central facsimile number.
6 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html
7 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

concerning examination procedures should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

Sal Guerrieri
251 West 30th Street
#3FW
New York NY 10001

MAILED

JUL 28 2011

OFFICE OF PETITIONS

In re Application of	:	
Guerrieri et al.	:	
Application No. 11/117,015	:	DECISION ON RENEWED PETITION
Filed: April 28, 2005	:	UNDER 37 C.F.R. § 1.137(B)
Attorney Docket No.: jp3-m101	:	
Title: WRIST REST	:	

This is a decision on the renewed petition pursuant to 37 C.F.R. § 1.137(b) to revive the above-identified application, filed on October 26, 2010.

This renewed petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Missing Parts (notice), mailed June 7, 2005, which set a shortened statutory period for reply of two months. No response was received, and no extensions of time under the provisions of 37 C.F.R. § 1.136(a) were requested. Accordingly, the above-identified application became abandoned on August 8, 2005. A notice of abandonment was mailed on September 13, 2006.

An original petition pursuant to 37 C.F.R. § 1.137(a) was submitted on August 6, 2009 along with the petition fee. The original petition was dismissed via the mailing of a decision on September 8, 2009.

A renewed petition pursuant to 37 C.F.R. § 1.137(a) was submitted on October 13, 2009 along with $51. The renewed petition was dismissed via the mailing of a decision on January 25, 2010.

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.

An original petition pursuant to 37 C.F.R. § 1.137(b) was filed on February 16, 2010 along with the petition fee, $84, and the proper statement of unintentional delay. The petition was dismissed via the mailing of a decision on September 2, 2010, which indicated that requirements two through three of Rule 1.137(b) had been satisfied, and that the fourth requirement of Rule 1.137(b) is not applicable, as a terminal disclaimer is not required.[1]

With this renewed petition, Petitioner has submitted the fee deficiency. It follows that the first requirement of Rule 1.137(b) has been met.

The first three requirements of Rule 1.137(b) have been met.

The Office of Patent Application Processing (OPAP) will be notified of this decision, and jurisdiction over the application is transferred to OPAP, so that the application may receive further processing. Petitioner will receive appropriate notifications regarding the fees owed, if any, and other information in due course from OPAP.

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 OPAP 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 OPAP where that change of

1 See Rule 1.137(d).

status must be effected - **the Office of Petitions cannot effectuate a change of status.**

The general phone number for OPAP is 571-272-4000. Telephone inquiries **regarding this decision** should be directed to the undersigned at (571) 272-3225.[2]

It is noted that the address listed on the petition differs from the address of record. The application file indicates that a change of correspondence address has been filed in this case, however this request cannot be entered as it has been executed by only one of the two joint inventors, and it is noted that a fully-executed declaration was included on initial deposit: see 37 C.F.R. §§ 1.33(a)(2) and 1.33(b)(4). If Petitioner desires to receive future correspondence regarding this application, a properly executed change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to Petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary. Petitioner will not receive future correspondence related to this application unless Change of Correspondence Address, Patent Form (PTO/SB/122) is submitted for the above-identified application. For Petitioner's convenience, a blank Change of Correspondence Address, Patent Form (PTO/SB/122), may be found at http://www.uspto.gov/web/forms/sb0122.pdf.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

cc: Sal Guerrieri
251 West 30th Street
Suite 12E
New York NY 10001

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

MAILED

FEB 09 2011

OFFICE OF PETITIONS

In re Application of	:	
Natsuki Kobayashi, et al.	:	
Application No. 11/117,114	:	DECISION GRANTING PETITION
Filed: April 28, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. UNIU79.048AUS	:	

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 5, 2011 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 1787 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 7201303
Issue Date: April 10,2007
Application No. 11117235
Filed: April 28,2005
Attorney Docket No. 302.1

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

This is a decision on the electronic petition, filed May 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 May 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.

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)
7,201,303	2007-04-10	11/117,235	2005-04-28	SEN0526.US

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

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

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Fred Gribbell/	Date (YYYY-MM-DD)	2011-05-02
Name	Frederick H. Gribbell	Registration Number	33892

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

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UNITED STATES 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.
11/117,279	04/28/2005	Stefanie A. Zucker	10047.0001USI1	5635

44305 7590 11/21/2011
WITHERS & KEYS, LLC
P. O. BOX 2049
MCDONOUGH, GA 30253

EXAMINER
SINGH, SUNIL

ART UNIT	PAPER NUMBER
3673	

MAIL DATE	DELIVERY MODE
11/21/2011	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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NOV 21 2011

WITHERS & KEYS, LLC
P. O. BOX 2049
MCDONOUGH, GA 30253

In re Patent No. ZUCKER ET AL.	:	
Issue Date: October 16, 2007	:	**DECISION GRANTING**
Appl No.: 11/117,279	:	**PETITION**
Filed: April 28, 2005	:	*37 CFR 1.324*
For: PEDIATRIC EMERGENCY TRANSPORT DEVICE	:	
	:	
	:	
	:	

This is a decision on the petition filed December 20, 2007 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.

David J. Bagnell
Supervisory Patent Examiner
Art Unit 3672
Technology Center 3600

DJB/11/21/11

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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NOV 2 1 2011

DATE: November 21, 2011
TO: Certificates of Correction Branch
FROM: David J. Bagnell
SPE, Art Unit 3672
SUBJECT: REQUEST FOR CERTIFICATE OF CORRECTION

Please issue a Certificate of Correction in U. S. Letters Patent No. 7,281,285 as specified on the attached Certificate.

David J. Bagnell, SPE
Art Unit 3672

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE

Patent No. 7,281,285
Patented: October 16, 2007

On petition requesting issuance of a certificate for correction of inventorship pursuant to 35 U.S.C. 256, it has been found that the above identified patent, through error and without deceptive intent, improperly sets forth the inventorship. Accordingly, it is hereby certified that the correct inventorship of this patent is:

Stefanie A. Zucker	Atlanta, GA
Suzanne J. Hantke	Lindenhurst, NY

David J. Bagnell
Supervisory Patent Examiner
Art Unit 3672

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 : 05/13/11

Patent No. : 7877378 B2
Inventor : **Gray**
Patent Issued : **January 25, 2011**
Docket No. : **VMS-40003**

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 Title of the Invention is printed in accordance with the record (no fee or authorization to charge fee). **"Therefore, no correction(s) is in order here under United States Codes (U.S.C.) 254 and the Code of Federal Regulation (C.F.R.) 1322."**

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

Lamonte M. Newsome
For Mary Diggs, Supervisor
Decisions & Certificates
Of Correction Branch
(571) 272-3421 or (703) 305-8309

Thomas R. Vigil Law Offices
319 Bluff Court
Barrington IL 60010

Lmn

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Date: 05/13/11

Patent No. : **7,877,378 B2**
Ser. No. : **11/117,281**
Inventor(s) : **Gray**
Issued : **January 25, 2011**
Title : System and method for consolidating execution information relatin to execution of instructions by a database management system
Docket No. : **VMS-40003**

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

Thomas R. Vigil Law Offices
319 Bluff Court
Barrington IL 60010

LMN

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Thomas R. Vigil Law Offices
319 Bluff Court
Barrington IL 60010

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NOV 14 2011

OFFICE OF PETITIONS

In re Patent No. 7,877,378 :
Issue Date: January 25, 2011 :
Application No. 11/117,281 : DECISION ON PETITION
Filed: April 28, 2005 :
Attorney Docket No. VMS-40003 :

This is a decision on the Response To The Request For Certificate Of Correction, filed June 28, 2011, which is being treated as a Petition Under 37 CFR §3.81(b), to accept the omission of assignee's name and residence and to correct the Title of Invention. A completed Certificate of Correction Form (PTO/SB/44) was submitted with petition.

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

Petitioner requests that the present Petition was submitted to add the omission of assignee's name and residence on the previously submitted PTOL-85B, and to correct the misspelling of the word "RELATING" in the Title of Invention. Accordingly, petitioner requests that a Certificate of Correction (PTO/SB/44) be issued to add the omitted assignee's name and residence and to correct the Title of Invention on 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(h), have been submitted. Further, Office assignment records are consistent with the requested correction. Accordingly, since the Petition complies with the provisions of 37 CFR §3.81(b), it is appropriate for the Office to issue a Certificate of Correction in accordance with the content of the Form (PTO/SB/44) that was submitted with petition.

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

Any questions concerning the issuance of a Certificate of Correction should be directed to the Certificates of Correction Branch at (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. 7,877,378.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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BACHMAN & LAPOINTE, P.C. (P&W)
900 CHAPEL STREET
SUITE 1201
NEW HAVEN, CT 06510-2802

Mail Date: 08/02/2010

Applicant	: Jun Shi	: DECISION ON REQUEST FOR
Patent Number	: 7647779	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/117,599	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/27/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **810** 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 : 5/10/11

TO SPE OF : ART UNIT 3672

SUBJECT : Request for Certificate of Correction for Appl. No.: 11117650 Patent No.: 7798257

CofC mailroom date: 05/06/11

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

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: _____

DAVID BAGNELL
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

3672

SPE — ART UNIT

UNITED STATES PATENT AND TRADEMARK OFFICE

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CLIFFORD H. KRAFT
320 ROBIN HILL DR.
NAPERVILLE IL 60540

MAILED

OCT 08 2010

OFFICE OF PETITIONS

In re Application of	:	
Peter V. Boesen	:	DECISION ON PETITION
Application No. 11/117,686	:	TO WITHDRAW
Filed: April 27, 2005	:	FROM RECORD
Attorney Docket No. P05193US01	:	

This is a decision on the request to withdraw as attorney of record under 37 CFR § 1.36, filed September 14, 2010.

The request is **NOT APPROVED**.

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

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

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

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

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

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

Terri Johnson
Petitions Examiner
Office of Petitions

cc: **MS. MARTHA TROUT**
C/O JAMES BOESEN
4109 30TH STREET
DES MOINES, IA 50310

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DEC 17 2010

OFFICE OF PETITIONS

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

In re Application of :
Anand G. Dabak, et al. :
Application No. 11/117,920 : ON PETITION
Filed: April 29, 2005 :
Attorney Docket No. TI-38608 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 14, 2010, which, for the reasons stated below, is being treated as a request for a two (2) month extension of time.

The request for a two (2) month extension of time is **GRANTED.**

The record shows that a final Office action was mailed on January 8, 2010, which set a three (3) month shortened statutory period for reply. Accordingly, a reply was due on or before April 8, 2010, or on or before July 8, 2010 with the submission of an extension of time fee pursuant to the provisions of 37 CFR 1.136(a). A further review of the record shows that petitioner filed a Notice of Appeal on July 8, 2010 with the extension of time fee which set a two (2) month shortened statutory period for reply. Since petitioner may obtain an extension of time up to an including February 8, 2011, this case is not in fact abandoned. Accordingly, the filing of a petition to revive is inappropriate until the maximum extendable period for reply has expired.

In view of the above, the $1620 petition fee submitted will be applied towards the purchase of a two month extension of time. The overpayment of $1130 will be refunded to petitioner in due course. {If the fee is more, apply the petition fee plus charge the balance to a deposit account if one is provided.}

Telephone inquiries concerning this decision may 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 Art Unit 2617 for further action as the nature of the case may require.

April M. Wise
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

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

In re Application of	:	
Anand G. Dabak et al.	:	
Application No. 11/117,920	:	DECISION ON PETITION
Filed: April 29, 2005	:	
Attorney Docket No. TI-38608	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 14, 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 January 20, 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 application became abandoned on April 21, 2011. A Notice of Abandonment was mailed on September 9, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1,860, (3) a proper statement of unintentional delay. Accordingly, the amendment is accepted as being unintentionally delayed.

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

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

This application is being referred to Technology Center AU 2617 for appropriate action by the Examiner in the normal course of business on the reply received October 14, 2011.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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MAR 25 2011
OFFICE OF PETITIONS

PATENT LAW & VENTURE GROUP
2424 S.E. BRISTOL, SUITE 300
NEWPORT BEACH CA 92660

In re Application of
Dellacona, et al.
Application No.: 11/118,010
Filed: April 29, 2005
Attorney Docket No: **Dellac.R-02**

ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), February 8, 2011, to revive the above-identified application.

The petition is **dismissed**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition" under 37 CFR 1.137(b)."

This application became abandoned for failure to respond in a timely manner to the final Office action mailed July 1, 2008. The notice set a shortened statutory period for reply of three months from its mailing date. No response was received within the allowable period, and the application became abandoned on October 2, 2008. A Notice of Abandonment was mailed January 22, 2009.

Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a non-provisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee, or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

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

Item 1 above has not been satisfied as a proper response to the final Office action was filed with the petition. The renewed petition must be accompanied by a proper response to the final Office action, which might include either an amendment that places the application in condition for allowance, a Request for Continued Examination under 37 CFR 1.114 **accompanied by a submission** , or a Notice of Appeal.

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

By mail: Commissioner for Patents
United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

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

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

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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PATENT LAW & VENTURE GROUP
2424 S.E. BRISTOL, SUITE 300
NEWPORT BEACH CA 92660

In re Application of :
Dellacona, et al. :
Application No.: 11/118,010 : ON PETITION
Filed: April 29, 2005 :
Attorney Docket No: **Dellac.R-02** :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed May 9, 2011, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to respond in a timely manner to the final Office action mailed July 1, 2008. The notice set a shortened statutory period for reply of three months from its mailing date. No response was received within the allowable period, and the application became abandoned on October 2, 2008. A Notice of Abandonment was mailed January 22, 2009.

The Request for Continued Examination filed February 8, 2011, is noted. The submission required by 37 CFR 1.114, filed May 9, 2011, is noted.

The application file is being forwarded to Technology Center 2100, GAU 2186 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

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: 50146-00007	
Application Number: 11/118,084	Filing Date (or 371(b) or (f) Date): April 28, 2005
Patent Number: 7,661,089	Issue Date: February 9, 2010
First Named Inventor: COPE, Rod	
Title: "TOOLS FOR STACKING UNCOORDINATED SOFTWARE PROJECTS"	

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 Jon P. Deppe	Date August 9, 2010
Name (Print/Typed) Jon P. Deppe	Registration Number 65,196

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

☐ *Total of _____ forms are submitted.

The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 10 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

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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MARSH, FISCHMANN & BREYFOGLE LLP
8055 East Tufts Avenue
Suite 450
Denver, CO 80237

Mail Date: 08/18/2010

Applicant	: Rod Cope	: DECISION ON REQUEST FOR
Patent Number	: 7661089	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/118,084	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/28/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1032** 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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www.uspto.gov

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

MAILED

DEC 22 2010

OFFICE OF PETITIONS

In re Application of	:	
Haulick et al.	:	
Application No. 11/118,092	:	DECISION ON PETITION
Filed: April 29, 2005	:	
Attorney Docket No. HI09075USU (P04053US)	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, September 16, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on December 17, 2009. A Notice of Abandonment was mailed June 8, 2010.

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

Further, it is not apparent whether the 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) 272-7751.

This application is being referred to Technology Center AU 2614 for further appropriate action by the Examiner in the normal course of business on the reply received.

Joan Olszewski
Petitions Examiner
Office of Petitions

Doc Code: PET.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
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REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH**

Attorney Docket Number: 50146-00008	
Application Number: 11/118,099	Filing Date (or 371(b) or (f) Date): April 28, 2005
Patent Number: 7,669,199	Issue Date: February 23, 2010
First Named Inventor: COPE, Rod	
Title: "INSTALLATION OF SOFTWARE STACKS INCLUDING UNCOORDINATED PROJECTS"	

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).

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

Signature Jon P. Deppe	Date August 23, 2010
Name (Print/Typed) Jon P. Deppe	Registration Number 65,196

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**.*

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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.

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5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
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MARSH, FISCHMANN & BREYFOGLE LLP
8055 East Tufts Avenue
Suite 450
Denver, CO 80237

Mail Date: 09/13/2010

Applicant	: Rod Cope	: DECISION ON REQUEST FOR
Patent Number	: 7669199	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/118,099	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/28/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1244** 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.

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

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Attorney Docket Number: 50146-00010	
Application Number: 11/118,100	Filing Date (or 371(b) or (f) Date): April 28, 2005
Patent Number: 7,665,086	Issue Date: February 16, 2010
First Named Inventor: COPE, Rod	
Title: "SOFTWARE PROJECT FILTER"	

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).

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

Signature Jon P. Deppe	Date August 16, 2010
Name (Print/Typed) Jon P. Deppe	Registration Number 65,196

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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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MARSH, FISCHMANN & BREYFOGLE LLP
8055 East Tufts Avenue
Suite 450
Denver, CO 80237

Mail Date: 08/23/2010

Applicant	: Rod Cope	: DECISION ON REQUEST FOR
Patent Number	: 7665086	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/118,100	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/28/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1063** 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 (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: 50146-00009	
Application Number: 11/118,101	Filing Date (or 371(b) or (f) Date): April 28, 2005
Patent Number: 7,657,866	Issue Date: February 2, 2010
First Named Inventor: COPE, Rod	
Title: "PROVIDING DOCUMENTATION FOR ASSEMBLING, INSTALLING, AND SUPPORTING OF SOFTWARE 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 Jon P. Deppe	Date Aug. 2, 2010
Name (Print/Typed) Jon P. Deppe	Registration Number 65,196

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

☐ *Total of _____ forms are submitted.

The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 10 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

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.

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1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether 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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MARSH, FISCHMANN & BREYFOGLE LLP
8055 East Tufts Avenue
Suite 450
Denver, CO 80237

Mail Date: 08/12/2010

Applicant	: Rod Cope	: DECISION ON REQUEST FOR
Patent Number	: 7657866	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/118,101	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/28/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **954** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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MASCHOFF GILMORE & ISRAELSEN
1441 W. UTE BLVD. SUITE 100
PARK CITY UT 84098-7633

MAILED
FEB 28 2012
OFFICE OF PETITIONS

In re Application of	:	
Jamaes K. Guenter	:	
Application No. 11/118,179	:	DECISION ON PETITION
Filed: April 29, 2005	:	
Attorney Docket No. F1002.11511US02	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to timely reply to the Notice To File Corrected Application Papers (Notice) mailed July 13, 2011. A Notice of Abandonment was mailed on September 28, 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; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice mailed July 13, 2011, is accepted as having been unintentionally delayed.

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

This application is being referred to the Office of Data Management to be processed into a patent via Technology Center AU 2814 for review of the amendment received December 27, 2011..

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE CA 94085-4040

MAILED

SEP 30 2010

OFFICE OF PETITIONS

In re Application of	:	
Murray L. Neal	:	
Application No. 11/118,235	:	DECISION ON PETITION
Filed: April 29, 2005	:	
Attorney Docket No. 8827P013	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to submit formal drawings in a timely manner in reply to the Notice of Allowability, mailed February 19, 2010, which set a period for reply of three (3) months. Accordingly, this application became abandoned on May 19, 2010. The Notice of Abandonment was mailed June 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 replacement from the drawings, (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 appropriate action by the on the reply received.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DEC 13 2010

PCT LEGAL ADMINISTRATION

Cohen, Pontani, Lieberman & Pavane LLP
551 Fifth Avenue
Suite 1210
New York, NY 10176

In re Patent no.: 7,372,534	:
Issue Date: May 13, 2008	:
Application No. 11/118,248	: DECISION ON PETITION
Filed: April 28, 2005	:
Attorney Docket No. 5332-14PCON	:

This is a decision on the "Petition under Rule 37 CFR 1.78(a)(3) to Accept an Unintentionally Delayed Claim for the Benefit of a Prior Application," filed June 19, 2009 and "Supplemental Petition under Rule 37 CFR 1.78(a)(3) to Accept an Unintentionally Delayed Claim for the Benefit of a Prior Application" filed October 22, 2010 and October 27, 2010, seeking acceptance of a delayed benefit claim to prior-filed international application PCT/JP2004/011196, filed July 29, 2004.

The petition under 37 CFR 1.78(a)(3) is **DISMISSED as moot**.

A petition under 37 CFR § 1. 78(a)(3) is only applicable to those applications filed on or after November 29, 2000.

The petition was accompanied by a supplemental application data sheet (ADS) to include a reference to the prior-filed application.

This nonprovisional application was filed on April 28, 2005. While a reference to the prior-filed application was not included in an ADS or in the first sentence of the specification following the title, reference nevertheless was made in the transmittal letter filed with the above-identified application.

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

transmittal letter submitted with the application, a petition will be required to accept a late claim for priority under 37 CFR § 1.78(a)(3).[1] In the instant case, the Office noted the claim for priority of the prior-filed application in the transmittal letter filed with the application, as shown by its inclusion on the filing receipt.

However, in order to enter the supplemental ADS into the application file at this stage, applicant's petition has been treated as a petition under 37 CFR 1.182. The supplemental ADS submitted on 27 October 2010 has been entered and the petition under 37 CFR 1.182 is **GRANTED**.

A corrected Filing Receipt indicating the benefit claim to international application PCT/JP2004/011196 accompanies this decision.

The $1410 surcharge fee required under 37 CFR 1.78(a)(3)(ii) will be refunded to petitioner's deposit account in due course, less the $400 petition fee required under 37 CFR 1.182.

Any questions concerning this decision on petition may be directed to Anthony Smith at (571) 272-3298.

Boris Milef
PCT Legal Examiner
Office of PCT Legal Administration

ATTACHMENT: Corrected Filing Receipt

[1] *Note* MPEP 201.11 (III)(D).

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UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/118,248	04/28/2005	2871	1300	5332-14PCON	4	2

CONFIRMATION NO. 1137

CORRECTED FILING RECEIPT

27799
COHEN, PONTANI, LIEBERMAN & PAVANE LLP
551 FIFTH AVENUE
SUITE 1210
NEW YORK, NY 10176

OC000000044923233

Date Mailed: 12/13/2010

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

Applicant(s)
Yuichi Yano, Ichihara-shi, JAPAN;

Assignment For Published Patent Application
Nippon Sheet Glass Company, Limited, Tokyo, JAPAN

Power of Attorney: The patent practitioners associated with Customer Number 27799

Domestic Priority data as claimed by applicant
This application is a CON of PCT/JP2004/011196 07/29/2004

Foreign Applications
JAPAN 2003-203468 07/30/2003

If Required, Foreign Filing License Granted: 05/24/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/118,248**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

LIGHT ADJUSTER WITH ELECTRICALLY CONDUCTIVE TAPE STUCK ON ELECTRICALLY CONDUCTIVE CYLINDRICAL HOUSING IN WHICH IS ACCOMODATED PART OF WIRING

Preliminary Class

349

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where

the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

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

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

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

SEP 28 2010

OFFICE OF PETITIONS

SILICON VALLEY PATENT AGENCY
7394 WILDFLOWER WAY
CUPERTINO CA 95014

In re Application of	:	
Jinsheng Wang, et al.	:	
Application No. 11/118,267	:	DECISION ON PETITION
Filed: April 28, 2005	:	
Attorney Docket No. 8892000-8C4	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 29, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, July 23, 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 October 24, 2008. The Notice of Abandonment was mailed February 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, and (3) a proper statement of unintentional delay.

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

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application.

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

This application is being referred to Technology Center AU 2443 for appropriate action by the Examiner in the normal course of business on the reply received.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA VA 22314

MAILED

OCT 15 2010

OFFICE OF PETITIONS

In re Patent No. 7,727,961	:	
Issued: June 1, 2010	:	
Application No. 11/118,368	:	ON PETITION
Filed: May 2, 2005	:	
Attorney Docket No. 271674US0	:	

This is a decision on the petition under 37 CFR 1.182, filed August 4, 2010, requesting issuance of a duplicate Letters Patent for the above-identified application.

The petition is **GRANTED**.

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

Further, petitioner has submitted $130.00 towards the required duplicate Letters Patent fee of $400.00, thus creating a $270.00 shortage. This shortage will be charged to petitioner's deposit account as authorized on August 4, 2010.

Any questions concerning this matter may be directed to Joan Olszewski at 571-272-7751. Any questions concerning issuance of the duplicate Letters Patent should be directed to Ollie Person at 703-756-1555 or Kimberly Terrell at 703-756-1568.

A copy of this decision is being forwarded to Publishing Division for issuance of a duplicate Letters Patent.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

cc: Ollie Person, RSQ 09 D 30-A (FAX 571-270-9764)
Kimberly Terrell, RSQ 09 D 33 (FAX 571-270-9958)

OBLON
SPIVAK

ATTORNEYS AT LAW

Docket No.: 271674US0

COMMISSIONER FOR PATENTS
ALEXANDRIA, VIRGINIA 22313

RE: Patent No.: 7,727,961
Applicants: Nobuya YANAI, et al.
Issue Date: June 1, 2010
For: ANTIOXIDANT CONSTITUENTS
Group Art Unit: 1628
Examiner: Craig D. RICCI

SIR:

Attached hereto for filing are the following papers:

PETITION FOR ISSUANCE OF A DUPLICATE LETTERS PATENT

Credit card payment is being made online (if electronically filed), or is attached hereto (if paper filed), in the amount of **$130.00** to cover any required fees. In the event any variance exists between the amount enclosed and the Patent Office charges for filing the above-noted documents, including any fees required under 37 C.F.R. 1.136 for any necessary Extension of Time to make the filing of the attached documents timely, please charge or credit the difference to our Deposit Account No. **15-0030**. Further, if these papers are not considered timely filed, then a petition is hereby made under 37 C.F.R. 1.136 for the necessary extension of time.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, L.L.P.
Norman F. Oblon

Thomas M. Cunningham, Ph.D.
Registration No. 45,394

Paul J. Killos
Registration No. 58,014

Customer Number
22850
(703) 413-3000 (phone)
(703) 413-2220 (fax)
(OSMMN 10/09)

10/26/2010 LDIEP1 00000002 150030 11118368
01 FC:1462 400.00 DA

Adjustment date: 10/26/2010 LDIEP1
08/04/2010 INTEFSW 00008058 11118368
01 FC:1464 -130.00 OP

Refund Ref:
10/26/2010 0030090022

Credit Card Refund Total: $130.00

Am Exp..: XXXXXXXXXXX1009

OBLON, SPIVAK, McCLELLAND, MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET ■ ALEXANDRIA, VIRGINIA 22314 ■ U.S.A.
TELEPHONE: 703-413-3000 ■ FACSIMILE: 703-413-2220 ■ WWW.OBLON.COM

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : Oct. 20, 2009

TO SPE OF : ART UNIT 1623

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/118599 Patent No.: 7572907

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Magdalene Talley

Certificates of Correction Branch
571-272-0423

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: the C of C has been approved

SPE 1623

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ESCHWEILER & ASSOCIATES (LANTIQ)
629 EUCLID AVENUE
SUITE 1000
CLEVELAND OH 44114

MAILED

JUL 15 2011

OFFICE OF PETITIONS

In re Application of	:	
FRIEDRICH, et al	:	
Application No. 11/118,622	:	DECISION ON PETITION
Filed: April 29, 2005	:	
Docket No. 1890-0239	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 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, May 26, 2010, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on August 27, 2010. A Notice of Abandonment was mailed December 21, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1620; and (3) and the required statement of unintentional delay.

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

This application is being referred to Technology Center AU 2611 for appropriate action by the Examiner in the normal course of business.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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GARLICK, HARRISON & MARKISON (ALU)
P.O. BOX 160727
AUSTIN TX 78716-0727

MAILED

APR 26 2011

OFFICE OF PETITIONS

In re Application of	:	
Fuming Wu, et al.	:	
Application No. 11/118,679	:	DECISION ON PETITION
Filed: April 29, 2005	:	
Attorney Docket No. 139343	:	

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

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed July 9, 2010, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on September 10, 2010. See MPEP 1215.04. The Notice of Abandonment was mailed March 14, 2011.

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

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

This application is being referred to Technology Center AU 2444 for appropriate action by the Examiner in the normal course of business on the reply received.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/118,742	04/29/2005	Jeffrey J. Goldberger	85346	7123

22242 7590 03/23/2011
FITCH EVEN TABIN & FLANNERY
120 SOUTH LASALLE STREET
SUITE 1600
CHICAGO, IL 60603-3406

EXAMINER
ROANE, AARON F

ART UNIT	PAPER NUMBER
3769	

MAIL DATE	DELIVERY MODE
03/23/2011	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

FITCH EVEN TABIN & FLANNERY
120 SOUTH LASALLE STREET
SUITE 1600
CHICAGO IL 60603-3406

In re Application of:
GOLDBERGER, JEFFREY J.
Serial No.: 11/118,742
Filed: April 29, 2005
Docket: 85346
Title: METHOD FOR PREVENTING THROMBUS FORMATION

DECISION ON PETITION

This is a decision on the petition received on August 12, 2008, seeking to suspend Office action on the above-identified application for a period of time to accept the attached Supplemental Amendment filed with the petition. This petition is being considered pursuant to 37 CFR § 1.103(a). The requisite $200.00 petition fee has been charged to the Deposit Account No. 06-1135 as authorized in the petition.

The petition is granted.

The record shows that the Supplemental Amendment filed on August 12, 2008 was accepted and amended claims were examined by the examiner in the Final rejection of November 14, 2008. Therefore, the petition is granted in order to enter the Supplemental Amendment of August 12, 2008.

The application is being forwarded to the examiner via the Supervisory Patent Examiner of Art Unit 3769 for consideration of the amendments filed on March 10, 2011. Any inquiry regarding this decision should be directed to Henry Yuen, Special Programs Examiner at (571)-272-4856.

PETITION GRANTED

Angela D. Sykes, Director
Technology Center 3700

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	11118876
Filing Date	28-Apr-2005
First Named Inventor	Vahid Saadat
Art Unit	3773
Examiner Name	MARK MASHACK
Attorney Docket Number	USGINZ03790
Title	Apparatus and methods for rapid deployment of tissue anchors

◉ Please withdraw me as attorney or agent for the above identified patent application and the practitioners of record associated with Customer Number: 40518

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

10.40(b)(4)

Certifications

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

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

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

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

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

I am authorized to sign on behalf of myself and all withdrawing practitioners.	
Signature	/Johney U. Han/
Name	Johney U. Han
Registration Number	45565

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Decision Date : October 7,2011

In re Application of :

Vahid Saadat

Application No : 11118876

Filed : 28-Apr-2005

Attorney Docket No : USGINZ03790

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY/AGENTOF RECORD

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

The request is **APPROVED.**

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

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

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

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

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

Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

STEPTOE & JOHNSON LLP
2121 AVENUE OF THE STARS
SUITE 2800
LOS ANGELES CA 90067

MAILED

MAY 3 1 2011

OFFICE OF PETITIONS

In re Application of	:	
Li-Chien Hsu	:	
Application No. 11/119,075	:	DECISION ON PETITION
Filed: April 28, 2005	:	TO WITHDRAW
Attorney Docket No. 83338.0004	:	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 5, 2011.

The request is **NOT APPROVED.**

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

Accordingly, the request to withdraw from record cannot be approved because no proper forwarding address was provided. The request to change the correspondence address should be that of the: (1) the first named inventor; or (2) an assignee of the entire interest under 37 C.F.R 3.71. If an assignee has intervened in this application then a Statement under 37 CFR 3.73(b), or a copy of the actual assignment must be submitted with a renewed request. The most current address of the inventor/assignee is needed.

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

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272- 4618.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11/17.11

TO SPE OF : ART UNIT: **2858**

SUBJECT : Request for Certificate of Correction for Appl. No.: **11/119,181** Patent No. **7,998,953**

CofC mailroom date **11/11/11**

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

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: _____

/Brandon J. Fetterolf 1628

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Date Mailed : 05/24/11

Patent No. : 7159633 B2
Inventor : **Nemish**
Patent Issued : **January 9, 2007**
Docket No. : **99**

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 The Title Page, Item (74) Charles McCloskey is missing from Attorney, Agent, or Firm Section (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

CHARLES C. MCCLOSKEY
13321 N. OUTER 40 RD. STE. 100
TOWN & COUNTRY MO 63017

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

MICROSOFT CORPORATION
ONE MICROSOFT WAY
REDMOND WA 98052

MAILED
AUG 05 2010
OFFICE OF PETITIONS

In re Application of	:	
Wang et al.	:	
Application No. 11/119,346	:	DECISION ON PETITION
Filed: April 29, 2005	:	
Attorney Docket No. 312658.01	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 6, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before June 10, 2010, as required by the Notice of Allowance and Fee(s) Due mailed March 10, 2010. Accordingly, the date of abandonment of this application is June 11, 2010. A Notice of Abandonment was mailed July 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 $1,510.00 and publication fee of $300.00; (2) the petition fee of $1,620.00; and (3) a proper statement of unintentional delay.

Further, 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. If the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the instant petition is being construed as the statement required by 37 CFR 1.137(b)(3) and petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

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

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

MAILED

APR 08 2011

OFFICE OF PETITIONS

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

In re Application of	:	
Jean-Alexis BERRANGER et al.	:	
Application No. 11/119,397	:	DECISION ON PETITION
Filed: April 28, 2005	:	
Attorney Docket No. 200400412-2	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 07, 2011, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before February 01, 2011, as required by the Notice of Allowance and Fee(s) Due, mailed November 01, 2010. Accordingly, the date of abandonment of this application is February 02, 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 $1,510.00 and the publication fee of $300.00, (2) the petition fee of $1,620.00; and (3) a proper statement of unintentional delay. Accordingly, the issue and publication fees are accepted as having been unintentionally delayed.

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

This application is being referred to Publishing Division for processing into a patent.

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

LECLAIRRYAN
2318 MILL ROAD
SUITE 1100
ALEXANDRIA VA 22314

MAILED

JAN 31 2011

OFFICE OF PETITIONS

In re Patent No. 7,674,778
Issued: March 9, 2010
Application No. 11/119,533
Filed: April 29, 2005
Attorney Docket No. 051058-4000

: LETTER REGARDING
: PATENT TERM ADJUSTMENT

This is a decision on the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT filed on March 25, 2010, requesting that the patent term adjustment indicated on the above-identified patent be corrected from 363 days to 480 days.

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

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

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

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period begins on April 29, 2008 and ends on November 23, 2008, the day before the RCE was filed, the B delay would be 208 days. See 35 U.S.C. 154(b)(1)(B)(i). However, patentee fails to account for the filing of a Notice of Appeal on July 31, 2008, and the subsequent filing of the RCE on November 24, 2008. The 208 days of the over three year period therefore would be consumed by appellate review, beginning on July 31, 2008 and ending on November 24, 2008. The time for appellate review is excluded (208-116); thus the "B delay is 92 days. *See* 35 U.S.C. § 154(b)(1)(B)(ii). As such, the patent term adjustment is 363 days (337 "A delay days" + 92 "B delay days" (208-116) - 66 Applicant delay days), not 480 days.

The Office acknowledges the submission of the required fee of $200.00 set forth in 37 CFR 1.18(e) .

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MEDLEN & CARROLL, LLP
703 MARKET STREET
SUITE 340
SAN FRANCISCO CA 94103

MAILED
DEC 19 2011
OFFICE OF PETITIONS

In re Patent No. 8,071,056	:	
Issued: December 6, 2011	:	
Application No. 11/119,539	:	NOTICE
Filed: April 29, 2005	:	
Attorney Docket No. UM-09372	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed November 8, 2011.

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

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

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

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

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

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

AUG 03 2010

OFFICE OF PETITIONS

In re Application of
David Edward Zaucha et al.
Application No. 11/119,572
Filed: May 2, 2005
Attorney Docket No. TI-38659

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 22, 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 June 11, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed March 11, 2010. Accordingly, the date of abandonment of this application is June 12, 2010. A Notice of Abandonment was mailed on July 1, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,510 and the publication fee of $300, (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay. Accordingly, the issue and publication fees are accepted as being unintentionally delayed.

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

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

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

/Kimberly A. Inabinet/

Kimberly A. Inabinet
Petitions Examiner
Office of Petitions

cc: John J. Patti
7839 Churchill Way
M/S 3999
Dallas, TX 75251

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)
7267144	2007-09-11	11119872	2005-05-02	MAT-101533

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	/s Jovan N. Jovanovic/	Date (YYYY-MM-DD)	2012-02-03
Name	Jovan N. Jovanovic	Registration Number	40039

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. 7267144
Issue Date: September 11,2007
Application No. 11119872
Filed: May 2,2005
Attorney Docket No. MAT-101533

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

This is a decision on the electronic petition, filed February 3,2012 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of February 3,2012 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No.	7193694	:
Issue Date:	March 20,2007	
Application No.	11119984	:DECISION GRANTING PETITION
Filed:	May 2,2005	:UNDER 37 CFR 1.378(c)
Attorney Docket No.	5022	:

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

The petition is **GRANTED**.

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

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

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7193694	2007-03-20	11119984	2005-05-02	5022

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

- ● An attorney or agent registered to practice before the Patent and Trademark Office
- ○ A sole patentee
- ○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ○ A joint patentee; all of whom are signing this e-petition
- ○ The assignee of record of the entire interest

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

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Mark Murphey Henry/	Date (YYYY-MM-DD)	2011-05-06
Name	Mark Murphey Henry	Registration Number	41066

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

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

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

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

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

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

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

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

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

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

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MAILED
JAN 20 2012
OFFICE OF PETITIONS

Chih Feng Yeh
188 Old Castle Point Rd.
Wappingers Falls, NY 12590-7069

In re Application of Liu et al. :
Application No. 11/120,005 : Decision on Petition
Filing Date: May 2, 2005 :
Attorney Docket No. TF11HMK016 :

This is a decision on the petition under 37 CFR 1.137(b) filed December 8, 2011, and supplemented December 14, 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 issued April 26, 2011, which set a shortened statutory period for reply of three (3) months. An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, the above-identified application became abandoned on July 27, 2011. The Office issued a Notice of Abandonment on November 30, 2011.

The instant petition requests revival of the application.

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

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee, and
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.[1]

The petition satisfies the requirements of 37 CFR 1.137(b) in so far as petitioner has supplied (1) a reply in the form of an amendment, (2) the required petition fee of $930, and (3) the required statement of unintentional delay. Therefore, the petition is granted and the application is revived.

[1] A terminal disclaimer is also necessary if the application is a design application or if the application was filed on or before June 8, 1995.

Technology Center Art Unit 2472 will be informed of the instant decision and the application will be further examined in due course.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

SEP 16 2011

OFFICE OF PETITIONS

In re	:
Bajko, et al.	: DECISION REGARDING
Application No. 11/120,206	: PATENT TERM ADJUSTMENT
Filed: May 3, 2005	:
Attorney Docket No. 39700-631001US	:

This is a decision in response to the "APPLICATION FOR ADJUSTMENT OF PATENT TERM UNDER 37 C.F.R. 1.705(b)", filed September 9, 2011. Applicants believe that they should be accorded additional PTA, asserting that they should not have been assessed 12 days of Applicant delay for filing a Supplemental IDS on May 16, 2011.

The petition is **GRANTED**.

On June 23, 2011, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 685 days. On September 9, 2011, Applicants timely[1] submitted the instant application for patent term adjustment, asserting that the correct number of days of PTA at the time of the mailing of the Notice of Allowance is 697 days. Applicant argues that his IDS filed on May 16, 2011 contained a 37 C.F.R. § 1.704(d) statement, and as such, he should not have been assessed delay of 12 days under 37 C.F.R. § 1.704(c)(8).

Applicants state that the application is not subject to a terminal disclaimer.

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[1] Applicants filed the application for patent term adjustment together with the filing of the issue fee.

A review of the IDS filed May 16, 2011 confirms that it contained a proper 37 CFR 1.704(d) statement.
Accordingly, the petition is granted.

In view thereof, the correct determination of PTA prior to issuance is six hundred ninety-seven (697) days (726 (667+6+53) days of PTO delay, reduced by 29 (6+20+3) days of Applicant delay).

Receipt of the $200 fee set forth in 37 CFR §1.18(e) is acknowledged.

The application is being forwarded to the Office of Data Management for processing into a patent.

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

Cliff 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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MARTIN RIZO PATRON
3196 SERENA AVENUE
CARPINTERIA CA 93013

MAILED
APR 15 2011
OFFICE OF PETITIONS

In re Patent No 7,041,073
Issue Date: May 9, 2006
Application No. 11/120,247
Filed: May 2, 2005
Attorney Docket No.

ON PETITION

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

The petition is **GRANTED**.

This patent expired on May 9, 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) 272-6735.

The patent file is being forwarded to Files Repository.

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

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Alexandria, VA 22313-1450
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STANDLEY LAW GROUP LLP
6300 Riverside Drive
Dublin OH 43017

MAILED
DEC 06 2010
OFFICE OF PETITIONS

In re Application of :
Bruce G. Kania :
Application No. 11/120,251 : ON PETITION
Filed: May 2, 2005 :
Attorney Docket No. **OHI 1717-063B** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 22, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, June 20, 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 September 21, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuing application under 37 CFR 1.53(b); (2) the petition fee of $1,620; and (3) a proper statement of unintentional delay.

This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of continuing Application No. 12/341,038.

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

JoAnne Burke
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)
7,197,829	2007-04-03	11/120,394	2005-05-02	8932-0003

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	/Alan T. McCollom/	Date (YYYY-MM-DD)	2012-03-16
Name	Alan T. McCollom	Registration Number	28881

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. 7197829
Issue Date: April 3,2007
Application No. 11120394
Filed: May 2,2005
Attorney Docket No. 8932-003

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

This is a decision on the electronic petition, filed March 16,2012 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of March 16,2012 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : June 9, 2011

TO SPE OF : ART UNIT 2852

SUBJECT : Request for Certificate of Correction for Appl. No.: 11120685 Patent No.: 7373096

CofC mailroom date: March 26, 2010

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Note: _____

_____

_____
Certificates of Correction Branch

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: _____

_____

_____

_____

_____

2852

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

SPE

Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/121,208	05/03/2005	Karl Torchalski	054054/291587	3135

97928 7590 04/12/2012
Zebra/Alston & Bird
101 S. Tryon Street
Suite 4000
Charlotte, NC 28280-4000

EXAMINER
KIM, TAE W

ART UNIT	PAPER NUMBER
2887	

NOTIFICATION DATE	DELIVERY MODE
04/12/2012	ELECTRONIC

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

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

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

jonathan.thomas@alston.com
IP_Legal@zebra.com
USPTOmail@alston.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 11, 2012

Zebra/Alston & Bird
101 S. Tryon Street
Suite 4000
Charlotte NC 28280-4000

In re Application of	:	
TORCHALSKI, KARL, et, al	:	**DECISION ON PETITION**
Application No. 11/121,208	:	
Filed: 05/03/2005	:	
Attorney Docket No. 054054/291587	:	

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 03, 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.

/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

FULBRIGHT & JAWORSKI LLP
600 CONGRESS AVE
SUITE 2400
AUSTIN TX 78701

MAILED

NOV 29 2010

OFFICE OF PETITIONS

In re Application	:
Gribble, et al.	: DECISION ON APPLICATION FOR
Application No. 11/121,316	: PATENT TERM ADJUSTMENT
Filed: May 3, 2005	:
Attorney Docket No. REAT:020USC2	:
	:

This letter is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(b)", filed July 22, 2010. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from four hundred sixty-two (462) days to five hundred fifty-nine (559) days.

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

On April 30, 2010, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above identified application. The Notice stated that the patent term adjustment (PTA) to date is four hundred sixty-two (462) days. On July 22, 2010, Applicant timely[1] submitted an application for patent term adjustment, asserting that the correct number of days of PTA at the time of the mailing of the Notice of Allowance is five hundred fifty-nine (559) days.

Applicants fail to state whether the patent issuing from the application is subject to a terminal disclaimer.

---

[1] Applicants filed the application for patent term adjustment on the same date as the issue fee.

The Office initially determined a patent term adjustment of four hundred sixty-two (462) days based on an adjustment for PTO delay of six hundred twenty-three (623) days pursuant to 37 CFR 1.703(a)(1), reduced by Applicant's delays of two (2) and fifty-nine (59) days pursuant to 37 CFR 1.704(b), and three and ninety-seven (97) days pursuant to 37 CFR 1.704(c)(8). The 97 days of Applicant delay are at issue.

Applicants argue that they should not have been assessed 97 days for filing a supplemental IDS on April 6, 2010. Applicants assert that they filed the supplemental IDS to disclose a Notice of Allowance in a related application, as required by McKesson Information Systems v. Bridge Medical, Inc., 487 F.3d 897 (Fed. Cir. 2007). As the Notice of Allowance did not issue until March 15, 2010, Applicants state they could not have submitted it before then. Accordingly, applicants argue that they should not have been assessed any days of delay for this filing.

Applicants argument has been considered, but is not persuasive. The Office has provided a procedure for not charging an IDS reduction under 37 CFR 1.704(c)(8) provided applicants can meet the waiver of 37 CFR 1.704(d), or provided the IDS was expressly requested by the Examiner. Neither is applicable here. Accordingly, the adjustment of 97 days is proper.

In addition, a review of the file reveals that Applicants should have been assessed additional delay pursuant to 37 CFR 1.704(c)(7) and 1.704(c)(8). Applicants filed a petition under 37 CFR 1.78(a)(3) on October 26, 2007. However, the petition was dismissed in a decision mailed on February 20, 2008. Applicants filed a grantable petition under Rule 78 on April 25, 2008. Accordingly, one hundred eighty-two (182) days of applicant delay should have been assessed pursuant to 37 CFR 1.704(c)(7). Moreover, seven (7) days of applicant delay should have also been assessed pursuant to 37 CFR 1.704(c)(8). Applicants filed an RCE on July 16, 2009. Thereafter, Applicants filed an IDS on July 23, 2009, and as such, seven (7) days of applicant delay should have been assessed under 37 CFR 1.704(c)(8).

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is **two hundred seventy-three (273)** days (623 days of PTO delay reduced by 350 (97+7+3+59+182+2) days of applicant delay).

Receipt of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged.

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

Patent Term Adjustments

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

Application Number*: 11121316 Search | Explanation of PTA Calculation | Explanation of PTE Calculation

PTA Calculations for Application: 11121316

Application Filing Date	05/03/2005	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	623
A Delays	623	PTO Manual Adjustment	-189
B Delays	0	Applicant Delay (APPL)	161
C Delays	0	Total PTA (days)	273

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
137	11/26/2010		P028	Adjustment of PTA Calculation by PTO		189	0
125	04/30/2010		MN/=.	Mail Notice of Allowance			0
124	04/26/2010		IREV	Issue Revision Completed			0
123	04/26/2010		DVER	Document Verification			0
122	04/06/2010		IDSC	Information Disclosure Statement considered			0
121	04/06/2010	12/30/2009	M844	Information Disclosure Statement (IDS) Filed		97	99
120	04/06/2010		WIDS	Information Disclosure Statement (IDS) Filed			0
114	04/01/2010		ACRE	Allowed Case Returned to the Examiner for Clerical Processing			0
113	04/01/2010		EX.A	Examiner's Amendment Communication			0
112	03/29/2010		N/=.	Notice of Allowance Data Verification Completed			0
111	03/29/2010		DOCK	Case Docketed to Examiner in GAU			0
110	03/29/2010		CNTA	Notice of Allowability			0
100	01/15/2010		FWDX	Date Forwarded to Examiner			0
99	12/30/2009		A...	Response after Non-Final Action			0
104	12/18/2009		IDSC	Information Disclosure Statement considered			0
98	12/18/2009		M844	Information Disclosure Statement (IDS) Filed			0
95	12/18/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
105	12/10/2009		IDSC	Information Disclosure Statement considered			0
97	12/10/2009		M844	Information Disclosure Statement (IDS) Filed			0
94	12/10/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
93	11/12/2009		FLRCPT.C	Filing Receipt - Corrected			0
92	11/05/2009		FLRCPT.C	Filing Receipt - Corrected			0
88	09/30/2009		MCTNF	Mail Non-Final Rejection			0
87	09/28/2009		CTNF	Non-Final Rejection			0
91	07/23/2009		M844	Information Disclosure Statement (IDS) Filed			0
85	07/23/2009		IDSC	Information Disclosure Statement considered			0
78	07/23/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
76	07/23/2009		RCAP	Reference capture on IDS			0
74	07/23/2009		FWDX	Date Forwarded to Examiner			0
72	07/23/2009		FWDX	Date Forwarded to Examiner			0
70	07/23/2009		ABN9	Disposal for a RCE / CPA / R129			0
90	07/22/2009		RCAP	Reference capture on IDS			0
89	07/22/2009		M844	Information Disclosure Statement (IDS) Filed			0
82	07/22/2009		IDSC	Information Disclosure Statement considered			0
77	07/22/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
75	07/22/2009		M844	Information Disclosure Statement (IDS) Filed			0
73	07/16/2009		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE			0
71	07/16/2009		RCEX	Request for Continued Examination (RCE)			0
69	07/16/2009		BRCE	Workflow - Request for RCE - Begin			0
86	07/06/2009		IDSC	Information Disclosure Statement considered			0
79	07/06/2009		M844	Information Disclosure Statement (IDS) Filed			0
68	07/06/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
83	06/26/2009		IDSC	Information Disclosure Statement considered			0
81	06/26/2009		RCAP	Reference capture on IDS			0
80	06/26/2009		M844	Information Disclosure Statement (IDS) Filed			0
67	06/26/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
96	06/23/2009		M844	Information Disclosure Statement (IDS) Filed			0
84	06/23/2009		IDSC	Information Disclosure Statement considered			0
66	06/23/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
65	04/16/2009		MCTFR	Mail Final Rejection (PTOL - 326)			0
64	04/13/2009		CTFR	Final Rejection			0
57	02/03/2009		FWDX	Date Forwarded to Examiner			0
63	12/22/2008		IDSC	Information Disclosure Statement considered			0
59	12/22/2008	12/19/2008	M844	Information Disclosure Statement (IDS) Filed		3	56
53	12/22/2008		WIDS	Information Disclosure Statement (IDS) Filed			0
58	12/19/2008		AF/D	Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received			0
56	12/19/2008	10/21/2008	A...	Response after Non-Final Action		59	46
55	12/19/2008		XT/G	Request for Extension of Time - Granted			0
62	12/04/2008		IDSC	Information Disclosure Statement considered			0
54	12/04/2008		M844	Information Disclosure Statement (IDS) Filed			0
51	12/04/2008		WIDS	Information Disclosure Statement (IDS) Filed			0
61	10/02/2008		IDSC	Information Disclosure Statement considered			0
52	10/02/2008		WIDS	Information Disclosure Statement (IDS) Filed			0
48	09/25/2008		PG-ISSUE	PG-Pub Issue Notification			0
60	09/03/2008		IDSC	Information Disclosure Statement considered			0
50	09/03/2008		RCAP	Reference capture on IDS			0
49	09/03/2008		M844	Information Disclosure Statement (IDS) Filed			0
47	09/03/2008		WIDS	Information Disclosure Statement (IDS) Filed			0
46	07/21/2008		MCTNF	Mail Non-Final Rejection			0
45	07/07/2008		CTNF	Non-Final Rejection			0
41	06/17/2008		MPTGR	Mail-Petition Decision - Granted			0
40	06/17/2008		PTGR	Petition Decision - Granted			0
39	06/16/2008		FLRCPT.C	Filing Receipt - Corrected			0
36	04/29/2008		FWDX	Date Forwarded to Examiner			0
37	04/25/2008		PET.	Petition Entered			0
35	04/03/2008		ELC.	Response to Election / Restriction Filed			0
34	03/17/2008	07/03/2006	MCTRS	Mail Restriction Requirement	623		-1
33	03/03/2008		CTRS	Requirement for Restriction / Election			0
32	02/20/2008		MPTDI	Mail-Petition Decision - Dismissed			0
31	02/20/2008		PTDI	Petition Decision - Dismissed			0
42	02/19/2008		IDSC	Information Disclosure Statement considered			0
38	02/19/2008		M844	Information Disclosure Statement (IDS) Filed			0
30	02/19/2008		WIDS	Information Disclosure Statement (IDS) Filed			0
29	02/11/2008		DOCK	Case Docketed to Examiner in GAU			0
28	11/30/2007		C614	New or Additional Drawing Filed			0
27	11/30/2007		A.PE	Preliminary Amendment			0
26	10/26/2007		PET.	Petition Entered			0
43	09/06/2007		IDSC	Information Disclosure Statement considered			0

Documentation

25	09/06/2007		RCAP	Reference capture on IDS			0
24	09/06/2007		M844	Information Disclosure Statement (IDS) Filed			0
23	09/06/2007		WIDS	Information Disclosure Statement (IDS) Filed			0
22	03/23/2007		A.PE	Preliminary Amendment			0
21	11/18/2005		TSSCOMP	IFW TSS Processing by Tech Center Complete			0
17	11/18/2005		DOCK	Case Docketed to Examiner in GAU			0
16	09/21/2005		T11050	Transfer Inquiry to GAU			0
15	09/20/2005		WROIPE	Application Return from OIPE			0
14	09/20/2005		COMP	Application Is Now Complete			0
13	09/20/2005		ROIPE	Application Return TO OIPE			0
12	09/20/2005		OIPE	Application Dispatched from OIPE			0
11	09/20/2005		COMP	Application Is Now Complete			0
44	09/09/2005		IDSC	Information Disclosure Statement considered			0
20	09/09/2005		RCAP	Reference capture on IDS			0
19.7	09/09/2005		M844	Information Disclosure Statement (IDS) Filed			0
19	09/09/2005		WIDS	Information Disclosure Statement (IDS) Filed			0
18	09/09/2005		A.PE	Preliminary Amendment			0
10	09/09/2005	09/07/2005	FLFEE	Payment of additional filing fee/Preexam		2	7
8	09/09/2005		ODRWNFD	Ommited Drawings. Applicant has Petitioned that the Filing Date not be changed and the Petition has			0
7	06/07/2005		INCD	Notice Mailed--Application Incomplete--Filing Date Assigned			0
4	05/31/2005		L12B	Cleared by L&R (LARS)			0
3	05/17/2005		L19B	Referred to Level 2 (LARS) by OIPE CSR			0
2	05/10/2005		SCAN	IFW Scan & PACR Auto Security Review			0
9	05/03/2005		CLAIM	Claim Preliminary Amendment			0
1	05/03/2005		IEXX	Initial Exam Team an			0

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APR 06 2012
OFFICE OF PETITIONS

Fulbright & Jaworski LLP
98 San Jacinto Boulevard
Suite 1100
Austin, Texas 78701

In re Gribble et al. Patent No. 7,863,327 Issue Date: January 4, 2011 Application No. 11/121,316 Filed: May 3, 2005 Attorney Docket No. REAT:020USC2/10714155 Title: Therapeutic Compounds and Method Of Use	: : 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 ("PTA") 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).

Facts

1. The application was filed on May 3, 2005, an RCE was file on July 16, 2010, and the patent issued on January 4, 2011.
2. On April 30, 2010, the Office mailed a notice of allowance providing a PTA of 462 days.
3. On July 22, 2010, patentee timely[1] filed a request for reconsideration of patent term adjustment under 37 CFR 1.705(b). Patentee requested an adjustment of 559 days of PTA. Patentee sought the removal of 97 days of applicant delay due to the submission of an information disclosure statement ("IDS") on April 6, 2010.

[1] Patentee must request reconsideration of the PTA determination mailed with the notice of allowance no later than the payment of the issue fee. The issue fee was paid on July 22, 2010.

4. On November 29, 2010, the Office dismissed patentee's request for removal of the 97 day applicant delay for submission of an IDS under 37 CFR 1.704(c)(8). The Office also increased the reduction of PTA by 182 days under 37 CFR 1.704(c)(7) for the filing of a renewed petition to correct priority and 7 days under 37 CFR 1.704(c)(8) for the filing of a supplemental IDS. Thus, the Office found that the correct amount of PTA at the time of the notice of allowance was 273 days.
5. On December 15, 2010, the Office mailed an issue notification letter to patentee advising patentee that the PTA determination at the time of the issuance of the patent was 754 days.[2]
6. On June 21, 2011, patentee timely[3] filed a complaint in the District Court of the District of Columbia under 35 USC 154(b)(4)(A) seeking a PTA determination of 1033 days.
7. On October 12, 2011, the Office and patentee filed a joint motion to remand the case to the Office for further proceedings. The Office agreed to reconsider the applicant delay of 182 days for the filing of the renewed petition. In addition, after implementation of the amended regulation 37 CFR 1.704(d), patentee agreed to submit a statement meeting the requirements of the amended regulation.
8. On October 18, 2011, the District Court for the District of Columbia remanded the civil action back to the USPTO for a recalculation of the PTA. The remand order required the Office to calculate PTA consistent with the joint motion to remand and to provide notice to the court if the new regulation does not issue with 60 days.
9. On December 1, 2010, the amended regulation, 37 CFR 1.704(d), became effective.
10 On February 14, 2012, patentee filed a request for relief based upon the District Court order. In the request, patentee submitted a statement under 37 CFR 1.704(d) in order to have the 97 day delay for submission of an IDS not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examining) of the application.

Patentee's Argument

"A" Delay

Patentee asserts that the correct amount of delay per 35 U.S.C. 154(b)(1)(A) [hereinafter, "A" delay] is 666 days as determined by the Office.

Patentee asserts that the Office is correct in granting 43 days of "A" delay per 35 U.S.C. 154(b)(1)(A)(iv) in failing to issue the patent within four months of payment of the issue fee and other outstanding requirements being satisfied.

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[2] This included an additional 43 days of Office delay under 35 U.S.C. 154(b)(1)(A)(iv) for failing to issue the patent within four months of payment of the issue fee, and 438 days of Office delay under 35 U.S.C. 154(b)(1)(B) for failing to issue a patent within 3 years of the filing date.

[3] The statute in effect at the time required patentee to file a civil action in the District Court for the District of Columbia within 180 days of the grant of the patent. After September 16, 2011, the proper District court for any newly filed 35 USC 154(b)(4)(A) action is the District Court for the Eastern District of Virginia.

Patentee asserts that the Office is correct in granting 623 days of "A" delay per 35 U.S.C. 154(b)(1)(A)(i)(I) in failing to issue at least one notification under 35 USC 132 or a notice of allowance under 35 USC 151 not later than fourteen months after the date on which the application was filed under 35 USC 111(a).

"B" Delay

Patentee asserts that the correct amount of delay per 35 U.S.C. 154(b)(1)(B) [hereinafter, "B" delay] is 438 days as determined by the Office.

"C" Delay

Patentee asserts that the correct amount of delay per 35 U.S.C. 154(b)(1)(C) [hereinafter, "C" delay] is zero days as determined by the Office.

"Overlapping"

Patentee asserts that the number of days overlapping within the meaning of 35 U.S.C. 154(b)(2)(A) is zero days as determined by the Office.

Applicant Delays

Patentee alleges that the correct amount of applicant delay within the meaning of 37 CFR 1.704 is 71 days. Patentee does not contest the 61 days (59 + 2) of applicant delay under 37 CFR 1.704(b). Moreover, patentee does not contest the 10 days (3 + 7) of applicant delay under 37 CFR 1.704(c)(8) for submitting a supplemental IDS after a reply had already been filed.

Patentee does contest two of the applicant (182 + 97) delays. Patentee contests the 182 days of applicant delay assessed by the Office pursuant to 37 CFR 1.704(c)(7) and the 97 days of applicant delay assessed pursuant to 37 CFR 1.704(c)(8).

Patentee alleges that the 182 days of applicant delay for a renewed petition to correct priority should be dismissed because the petition was not a "reply" and therefore should not be considered applicant delay under 37 CFR 1.704(c)(7). *See* 37 CFR 1.704(c)(7). Patentee further asserts that the petition did not cause delay in processing or examination of the application.

Patentee further alleges that the applicant delay of 97 days is in error. Patentee asserts that under 37 CFR 1.56 patentee has a duty to disclose information that is material to patentability. Patentee further asserts that the duty applies when patentee is aware of information in another application with substantially similar claims. *See McKesson Info Solutions v. Bridge Med. Inc.*, 487 F. 3d 897 (Fed. Cir. 2007). Moreover, patentee believes that the reduction should be removed in light of patentee's ability to meeting the revised 37 CFR 1.704(d), which became

effective on December 1, 2011 and was specifically implemented to reduce any injury for a "McKesson" type submission.

Overall PTA Calculation

Formula:

A" delay + "B" delay + "C" delay - Overlap - applicant delay = X

Patentee's Calculation	**USPTO's Calculation**
666 + 438 + 0 – 0 – 71 = 1033	666 + 438 + 0 – 0 – 71 = 1033

Decision

The Office finds that the correct amount of PTA is **ONE THOUSAND AND THIRTY THREE (1033) days.** The Office notes that the Office and patentee are in agreement as to the amounts of "A", "B", "C", and the amount of overlapping Office delay. Two of the applicant delays, 182 and 97, are disputed by patentee

The Office has considered patentee's arguments relating to the applicant delay of 182 days pursuant to 37 CFR 1.704(c)(7) as it relates to the petition to correct priority and finds that the 182 days of applicant delay should be removed.

In addition, the Office finds that the 97 days of applicant delay under 37 CFR 1.704(c)(8) is obviated with the submission of the statement under 37 CFR 1.704(d)(1)(ii). As noted, the civil action was remanded by the Office to await the issuance of amended regulation 37 CFR 1.704(d). On December 1, 2001 the Office did issue the amended regulation. The amended regulation is as follows:

> 37 CFR 1.704(d) (1)
> 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:
>
> (i) Was first cited in any communication from a patent office in a counterpart foreign or international application or from the Office, and 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; or
>
> (ii) Is a communication that was issued by a patent office in a counterpart foreign or international application or by the Office, and 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.

The Office has review the sufficiency of the statement submitted by patentee and finds that the statement submitted on page 10 of the request filed on February 14, 2002 meets the requirements

of 37 CFR 1.704(d)(1)(ii). Although it should be noted that patentee did not expressly state that the 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, the Office finds that the facts could lead to no other conclusion. Specifically, the Office communication (notice of allowance) in related application 11/927,418 mailed on March 15, 2010 was submitted to the Office for consideration in application 11/121,316 on April 6, 2010. This submission occurred within 30 days of Office mailing of the notice of allowance and accordingly, must have been within 30 days of receipt by the § 1.56(c) individual filing such statement within the Office. Therefore, the IDS submission on April 6, 2010 is not deemed to be a failure to engage in reasonable efforts to conclude (processing or examination) of the application.

Upon reconsideration, the Office finds that the correct amount of applicant delay is only 71 days as asserted by patentee.

The Office will *sua sponte* issue a certificate of correction changing the amount of PTA to 1033 days. In addition, the Office will correct the PAIR determination to be consistent with this decision.

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

/Kery A. Fries/

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

Enclosure: Copy of DRAFT Certificate of Correction
Adjusted PTA calculation In PAIR

UNITED STATES PATENT AND TRADEMARK OFFICE

DRAFT CERTIFICATE OF CORRECTION

PATENT : 7,863,327

DATED : January 4, 2011 **DRAFT**

INVENTOR(S) : Gribble

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 754 days

Delete the phrase "by 754 days" and insert – by 1033 days--

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

Application Number*: 11121316 Search Explanation of PTA Calculation Explanation of PTE Calculation

PTA Calculations for Application: 11121316

Application Filing Date	05/03/2005	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent	01/04/2011	Non-Overlapping USPTO Delays:	1104
A Delays	666	PTO Manual Adjustment	90
B Delays	438	Applicant Delay (APPL)	161
C Delays	0	Total PTA (days)	1033

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
150	04/05/2012		P028	Adjustment of PTA Calculation by PTO	279		0
143	01/04/2011	11/22/2010	PTAC	Patent Issue Date Used in PTA Calculation	43		131
142	12/07/2010		EFDC	Export to Final Data Capture			0
141	12/06/2010		D1935	Dispatch to FDC			0
140	12/04/2010		EML_NTR	Email Notification			0
139	11/29/2010		MP025	Mail-Record a Petition Decision of Granted for Patent Term Adjustment after Allowance			0
138	11/26/2010		P025	Record a Petition Decision of Granted for Patent Term Adjustment after Allowance			0
138	11/26/2010		P025	Record a Petition Decision of Granted for Patent Term Adjustment after Allowance			0
137	11/26/2010		P028	Adjustment of PTA Calculation by PTO		189	0
137	11/26/2010		P028	Adjustment of PTA Calculation by PTO			0
135	08/03/2010		BIG.	Statement Filed Indicating a Loss of Entitlement to Small Entity Status			0
132	07/23/2010		PILS	Application Is Considered Ready for Issue			0
134	07/22/2010		FIDC	Finished Initial Data Capture			0
133	07/22/2010		PET2	Petition Entered			0
131	07/22/2010		N084	Issue Fee Payment Verified			0
130	07/22/2010		IFEE	Issue Fee Payment Received			0
129	06/08/2010		MM327	Mail Miscellaneous Communication to Applicant			0
128	06/07/2010		M327	Miscellaneous Communication to Applicant - No Action Count			0
127	05/03/2010		EIDC	Export to Initial Data Capture			0
125	04/30/2010		MN/=.	Mail Notice of Allowance			0
124	04/26/2010		IREV	Issue Revision Completed			0
123	04/26/2010		DVER	Document Verification			0
122	04/06/2010		IDSC	Information Disclosure Statement considered			0
121	04/06/2010	12/30/2009	M844	Information Disclosure Statement (IDS) Filed		97	99
120	04/06/2010		WIDS	Information Disclosure Statement (IDS) Filed			0
114	04/01/2010		ACRE	Allowed Case Returned to the Examiner for Clerical Processing			0
113	04/01/2010		EX.A	Examiner's Amendment Communication			0
112	03/29/2010		N/=.	Notice of Allowance Data Verification Completed			0
111	03/29/2010		DOCK	Case Docketed to Examiner in GAU			0
110	03/29/2010		CNTA	Allowability Notice			0
100	01/15/2010		FWDX	Date Forwarded to Examiner			0
99	12/30/2009		A...	Response after Non-Final Action			0
104	12/18/2009		IDSC	Information Disclosure Statement considered			0
98	12/18/2009		M844	Information Disclosure Statement (IDS) Filed			0
95	12/18/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
105	12/10/2009		IDSC	Information Disclosure Statement considered			0
97	12/10/2009		M844	Information Disclosure Statement (IDS) Filed			0
94	12/10/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
93	11/12/2009		FLRCPT.C	Filing Receipt - Corrected			0
92	11/05/2009		FLRCPT.C	Filing Receipt - Corrected			0
88	09/30/2009		MCTNF	Mail Non-Final Rejection			0
87	09/28/2009		CTNF	Non-Final Rejection			0
91	07/23/2009		M844	Information Disclosure Statement (IDS) Filed			0
85	07/23/2009		IDSC	Information Disclosure Statement considered			0
78	07/23/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
76	07/23/2009		RCAP	Reference capture on IDS			0
74	07/23/2009		FWDX	Date Forwarded to Examiner			0
72	07/23/2009		FWDX	Date Forwarded to Examiner			0
70	07/23/2009		ABN9	Disposal for a RCE / CPA / R129			0
90	07/22/2009		RCAP	Reference capture on IDS			0
89	07/22/2009		M844	Information Disclosure Statement (IDS) Filed			0
82	07/22/2009		IDSC	Information Disclosure Statement considered			0

77	07/22/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
75	07/22/2009		M844	Information Disclosure Statement (IDS) Filed			0
73	07/16/2009		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE			0
71	07/16/2009		RCEX	Request for Continued Examination (RCE)			0
69	07/16/2009		BRCE	Workflow - Request for RCE - Begin			0
143.5	07/15/2009	05/03/2008	PTA36M	PTA 36 Months	438		0.5
86	07/06/2009		IDSC	Information Disclosure Statement considered			0
79	07/06/2009		M844	Information Disclosure Statement (IDS) Filed			0
68	07/06/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
83	06/26/2009		IDSC	Information Disclosure Statement considered			0
81	06/26/2009		RCAP	Reference capture on IDS			0
80	06/26/2009		M844	Information Disclosure Statement (IDS) Filed			0
67	06/26/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
96	06/23/2009		M844	Information Disclosure Statement (IDS) Filed			0
84	06/23/2009		IDSC	Information Disclosure Statement considered			0
66	06/23/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
65	04/16/2009		MCTFR	Mail Final Rejection (PTOL - 326)			0
64	04/13/2009		CTFR	Final Rejection			0
57	02/03/2009		FWDX	Date Forwarded to Examiner			0
63	12/22/2008		IDSC	Information Disclosure Statement considered			0
59	12/22/2008	12/19/2008	M844	Information Disclosure Statement (IDS) Filed		3	56
53	12/22/2008		WIDS	Information Disclosure Statement (IDS) Filed			0
58	12/19/2008		AF/D	Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received			0
56	12/19/2008	10/21/2008	A...	Response after Non-Final Action		59	46
55	12/19/2008		XT/G	Request for Extension of Time - Granted			0
62	12/04/2008		IDSC	Information Disclosure Statement considered			0
54	12/04/2008		M844	Information Disclosure Statement (IDS) Filed			0
51	12/04/2008		WIDS	Information Disclosure Statement (IDS) Filed			0
61	10/02/2008		IDSC	Information Disclosure Statement considered			0
52	10/02/2008		WIDS	Information Disclosure Statement (IDS) Filed			0
48	09/25/2008		PG-ISSUE	PG-Pub Issue Notification			0
60	09/03/2008		IDSC	Information Disclosure Statement considered			0
50	09/03/2008		RCAP	Reference capture on IDS			0
49	09/03/2008		M844	Information Disclosure Statement (IDS) Filed			0
47	09/03/2008		WIDS	Information Disclosure Statement (IDS) Filed			0
46	07/21/2008		MCTNF	Mail Non-Final Rejection			0
45	07/07/2008		CTNF	Non-Final Rejection			0
41	06/17/2008		MPTGR	Mail-Petition Decision - Granted			0
40	06/17/2008		PTGR	Petition Decision - Granted			0
39	06/16/2008		FLRCPT.C	Filing Receipt - Corrected			0
36	04/29/2008		FWDX	Date Forwarded to Examiner			0
37	04/25/2008		PET.	Petition Entered			0
35	04/03/2008		ELC.	Response to Election / Restriction Filed			0
34	03/17/2008	07/03/2006	MCTRS	Mail Restriction Requirement	623		0.5
33	03/03/2008		CTRS	Restriction/Election Requirement			0
32	02/20/2008		MPTDI	Mail-Petition Decision - Dismissed			0
31	02/20/2008		PTDI	Petition Decision - Dismissed			0
42	02/19/2008		IDSC	Information Disclosure Statement considered			0
38	02/19/2008		M844	Information Disclosure Statement (IDS) Filed			0
30	02/19/2008		WIDS	Information Disclosure Statement (IDS) Filed			0
29	02/11/2008		DOCK	Case Docketed to Examiner in GAU			0
28	11/30/2007		C614	New or Additional Drawing Filed			0
27	11/30/2007		A.PE	Preliminary Amendment			0
26	10/26/2007		PET.	Petition Entered			0
43	09/06/2007		IDSC	Information Disclosure Statement considered			0
25	09/06/2007		RCAP	Reference capture on IDS			0
24	09/06/2007		M844	Information Disclosure Statement (IDS) Filed			0
23	09/06/2007		WIDS	Information Disclosure Statement (IDS) Filed			0
22	03/23/2007		A.PE	Preliminary Amendment			0
21	11/18/2005		TSSCOMP	IFW TSS Processing by Tech Center Complete			0
17	11/18/2005		DOCK	Case Docketed to Examiner in GAU			0
16	09/21/2005		TI1050	Transfer Inquiry to GAU			0
15	09/20/2005		WROIPE	Application Return from OIPE			0
14	09/20/2005		COMP	Application Is Now Complete			0
13	09/20/2005		ROIPE	Application Return TO OIPE			0
12	09/20/2005		OIPE	Application Dispatched from OIPE			0
11	09/20/2005		COMP	Application Is Now Complete			0
44	09/09/2005		IDSC	Information Disclosure Statement considered			0
20	09/09/2005		RCAP	Reference capture on IDS			0
19.7	09/09/2005		M844	Information Disclosure Statement (IDS) Filed			0
19	09/09/2005		WIDS	Information Disclosure Statement (IDS) Filed			0
18	09/09/2005		A.PE	Preliminary Amendment			0
10	09/09/2005	09/07/2005	FLFEE	Payment of additional filing fee/Preexam		2	7
8	09/09/2005		ODRWNFD	Ommited Drawings. Applicant has Petitioned that the Filing Date not be changed and the Petition has			0
7	06/07/2005		INCD	Notice Mailed--Application Incomplete--Filing Date Assigned			0
4	05/31/2005		L128	Cleared by L&R (LARS)			0
3	05/17/2005		L198	Referred to Level 2 (LARS) by OIPE CSR			0
2	05/10/2005		SCAN	IFW Scan & PACR Auto Security Review			0
9	05/03/2005		CLAIM	Claim Preliminary Amendment			0
1	05/03/2005		IEXX	Initial Exam Team nn			0
0.5	05/03/2005		EFILE	Filing date			0

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INTEGRAL DOCKET
304 INDIAN TRACE, #750
WESTON FL 33326

MAILED
OCT 13 2011
OFFICE OF PETITIONS

In re Application of	:	DECISION ON PETITION
Thomas Aisenbrey	:	TO WITHDRAW
Application No. 11/121,376	:	FROM RECORD
Filed: May 4, 2005	:	
Attorney Docket No. 2200-0036-01	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 29, 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. Customer Number 07066 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.

Currently, there is an outstanding Office action mailed July 13, 2011 that requires a reply.

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

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

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ZOLLINGER & BURLESON, LTD.
P.O. BOX 2368
NORTH CANTON OH 44720

MAILED

FEB 23 2011

OFFICE OF PETITIONS

In re Patent No. 7,290,498	:	
Issued: November 6, 2007	:	
Application No. 11/121,478	:	ON PETITION
Filed: May 3, 2005	:	
Attorney Docket No. LS003G0PUSC	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed December 29, 2010.

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

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

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

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

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

Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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ADVANCED MICRO DEVICES, INC.
C/O VEDDER PRICE P.C.
222 N.LASALLE STREET
CHICAGO, IL 60601

Mail Date: 10/07/2010

Applicant	: Zheng Huang	: DECISION ON REQUEST FOR
Patent Number	: 7657897	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/121,545	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/04/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1278** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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ADVANTEDGE LAW GROUP, LLC
922 W. Baxter Dr.
Suite 100
South Jordan UT 84095

MAILED
AUG 02 2010
OFFICE OF PETITIONS

In re Application of	:	
Schank et al.	:	
Application No. 11/121556	:	ON REQUEST FOR
Filing or 371(c) Date: 05/04/2005	:	RECONSIDERATION OF
Atty Docket No.:	:	PATENT TERM ADJUSTMENT
4001-0244	:	

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b), filed March 16, 2010. Applicant submits that the proper patent term adjustment to be indicated on the patent is 1734 days, not 1085 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.

/Derek L. Woods/

Derek L. Woods
Attorney
Office of Petitions

---

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

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United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/121,587	05/04/2005	Mitsuaki Osame	0553-0444	3899

24628 7590 12/12/2011
Husch Blackwell LLP
Husch Blackwell Sanders LLP Welsh & Katz
120 S RIVERSIDE PLAZA
22ND FLOOR
CHICAGO, IL 60606

EXAMINER
STONE, ROBERT M

ART UNIT	PAPER NUMBER
2629	

MAIL DATE	DELIVERY MODE
12/12/2011	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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Husch Blackwell LLP
Husch Blackwell Sanders LLP Welsh & Katz
120 S RIVERSIDE PLAZA
22ND FLOOR
CHICAGO IL 60606

In re application of:	:	
OSAME, MITSUAKI et al.	:	DECISION
Application Serial No. **11/121587**	:	ON PETITION
Filed: **May 4, 2005**	:	
Attorney Docket Number: **0553-0444**	:	
For: **DISPLAY DEVICE HAVING A LIGHT EMITTING ELEMENT**	:	

This is a response to the petition under 37 CFR 1.59(b), filed October 12, 2011 to expunge information from the above identified application and amend PTO records.

BACKGROUND

On June 28, 2011 applicant electronically filed a submission including: a list of publications (IDS); a transmittal letter associated with the IDS and two foreign reference documents. The IDS and transmittal letter indicated a different application form the one to which applicant transmitted the submission. The two foreign reference documents do not match the IDS listing. Petitioner maintains that the foreign reference documents were intended for the instant application while the transmittal letter and IDS were intended for the application listed thereon.

In spite of the inconsistency, the examiner considered the IDS and returned an initialed copy to applicant on July 12, 2011.

Simultaneously with the petition, applicant has filed a corrected IDS listing the two foreign references that were submitted on June 28, 2011.

Petitioner seeks to have the IDS and transmittal letter submitted on June 28, 2011 and the initialed IDS mailed on July 12, 2011 removed from the application file.

Applicants submit that the following factors are favorable to the grant of the present petition:

- A Notice of Allowance or Issue Fee Notification has not been received in this case, so there should be sufficient time to decide the present Petition and effect such return prior to the issuance of any patent on the application in issue.
- Applicants state that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted.

- The petitioner makes a commitment to retain such information for the period of any patent with regard to which such information is submitted.
- Applicants state that they are not aware of any materiality under 37 CFR § 1.56, of any of the references listed on the IDS in the June 28, 2011 submission.

In addition, the petition fee has been transmitted.

PRACTICE AND PROCEDURE

MPEP 724.05 II and III provide that the grant of a petition to expunge papers submitted in an incorrect application requires:

(A) the Office can effect such return prior to the issuance of any patent on the application in issue;

(B) it is stated that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted;

(C) the information has not otherwise been made public;

(D) there is a commitment on the part of the petitioner to retain such information for the period of any patent with regard to which such information is submitted;

(E) it is established to the satisfaction of the Director that the information to be returned is not material information under 37 CFR 1.56; and

(F) the petition fee as set forth in 37 CFR 1.17(g) is included.

DECISION

In this instance, the application Pre-Grant Publication was published on November 24, 2005. As of that date, the application was publicly available on Public PAIR. As such, the information has already been made public and requirement (C) above cannot be met.

For this reason, the petition is **DENIED**.

Any inquiry regarding this decision should be directed to Daniel Swerdlow, Quality Assurance Specialist, at (571) 272-7531.

/Daniel Swerdlow/

Daniel Swerdlow
Quality Assurance Specialist
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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SHAY GLENN LLP
2755 CAMPUS DRIVE
SUITE 210
SAN MATEO CA 94403

MAILED

SEP 13 2010

OFFICE OF PETITIONS

In re Application of	:	
Danitz, David J.	:	
Application No. 11/121,668	:	DECISION ON PETITION
Filed: May 03, 2005	:	TO WITHDRAW
Attorney Docket No. **10112-707.201**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 17, 2010.

The request is **MOOT** because a revocation of power of attorney has been previously filed.

A review of the file record indicates that the power of attorney to SHAY GLENN LLP has been revoked by the assignee of the patent application on September 03, 2010. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions

cc: **PATENT DEPT.**
INTUITIVE SURGICAL OPERATIONS, INC.
1266 KIFER ROAD BLDG. 101
SUNNYVALE CA 94086

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INTEGRAL DOCKET
304 INDIAN TRACE, #750
WESTON FL 33326

MAILED
OCT 19 2011
OFFICE OF PETITIONS

In re Application of	:	
Thomas Aisenbrey	:	DECISION ON PETITION
Application No. 11/121,680	:	TO WITHDRAW
Filed: May 4, 2005	:	FROM RECORD
Attorney Docket No. 2200-0034-01	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 29, 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. Customer Number 07066 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.

Currently, there is an outstanding Office action mailed August 19, 2011 that requires a reply.

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

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Date Mailed : 01/03/12

Patent No. : 7887511 B2
Patent Issued : **February 15, 2011**
Docket No. : **18879-019US1**

Re: Request for Certificate of Correction

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

Respecting the alleged errors in the documents filed on 06/15/11; please see attachments. **"Therefore, no correction(s) is in order here under United States Codes (U.S.C.) 254 and the Code of Federal Regulation (C.F.R.) 1322."**

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

Lamonte M. Newsome
For Mary Diggs, Supervisor
Decisions & Certificates
Of Correction Branch
(571) 272-3421 or (703)756-1580

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

LMN

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 06/24/11

TO SPE OF : ART UNIT 3763

SUBJECT : Request for Certificate of Correction for Appl. No.: 11121708 Patent No.: 7887511

CofC mailroom date: 06/15/11

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Note: **Should Foreign Application Priority Data be approved**

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

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

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

Comments: Certified copies of the priority documents have not been received (see NOA mailed on 10/06/2010).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

/Tan-Uyen Ho/

(Jackie) Tan-Uyen Ho

SPE

Art Unit

3763

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Foley & Lardner LLP
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON WI 53701-1497

MAILED

JAN 05 2012

OFFICE OF PETITIONS

In re Application of	:	
Webster et al.	:	ON REQUEST FOR
Application No. 11/121743	:	RECONSIDERATION OF
Filing or 371(c) Date: 05/04/2005	:	PATENT TERM ADJUSTMENT
Atty Docket No.:	:	
088245-2503	:	

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT FOR PATENT APPLICATION UNDER 37 C.F.R. § 1.705(b), filed December 5, 2011. Applicant requests an adjustment of the patent term to indicate a total Patent Term Adjustment of 1117 days, not 657 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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KILPATRICK TOWNSEND &
STOCKTON LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

MAILED

DEC 09 2011

OFFICE OF PETITIONS

In re Application of:	:
Steven P. Georgis	: ON REQUEST FOR
Application No. 11/121760	: RECONSIDERATION OF
Filing or 371(c) Date: 05/03/2005	: PATENT TERM ADJUSTMENT
Atty. Docket No.:	:
040252-000310US	:

This letter is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 36 CFR 1.705(b)," filed November 16, 2011. Applicants submit that the correct patent term adjustment should be 900 days, not 654 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 remove from the PTA a period of overlap of 367 days pursuant to 37 CFR 1.704(c).

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

The Office has updated the PALM and PAIR screens to reflect that the Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is nine hundred **(900)** days. A copy of the updated PALM screen, showing the correct determination, is enclosed.

On October 20, 2011, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 654 days.

On November 16, 2011, applicant timely submitted the present application for patent term adjustment[1]. Applicants assert that the Office erred in failing to remove from the PTA a period of overlap of 367 days pursuant to 37 CFR 1.704(c).

Applicant's arguments have been carefully considered. A review of Office records confirms that the a reduction of 419 days in connection with the abandonment and revival of the application

[1] Office records show that the Issue Fee payment was received in the Office on February 15, 2011.

pursuant to 37 CFR 1.704(c)(3), beginning on the date of abandonment, and ending on date of mailing of the decision reviving the application, is proper. Office records also reveal that a reduction of 298 days, beginning on the day after the mail date of the Notice of Abandonment, July 27, 2007, and ending on the date of mailing of a decision reviving the application, May 19, 2008, was assessed applicants. The Office agrees that the reduction of 298 days is inappropriate, and the entry of a period of reduction of 298 days has been removed[2].

In view thereof, the correct Patent Term Adjustment at the time of the mailing of the Notice of Allowance is one hundred forty (140) days, subject to any terminal disclaimer.

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

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

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

/DLW/

Derek L. Woods
Attorney
Office of Petitions

Enclosure: Copy of Adjustment PAIR Calculations

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[2] Neither 37 CFR 1.704(c)(3) nor (c)(4) provide for a period of reduction beginning on the day after the mail date of a Notice of Abandonment and ending on the date of mailing of a decision reviving the application. The appropriate period of reduction is 419 days, beginning on the date of abandonment, March 28, 2007, and ending on date of mailing of the decision reviving the application, May 19, 2008, pursuant to 37 CFR 1.704(c)(3). Also included in the Office's determination of PTA and pursuant to 37 CFR 1.704(b), is a reduction of 367 days, beginning on the day after the date that is three months after the date of mailing of the Office action, also March 28, 2007, and ending on the date the reply – a Notice of Appeal and fee - was filed, March 28, 2008. However, this period of reduction overlaps period of reduction pursuant to 37 CFR 1.704(c)(3) as iterated supra.

Patent Term Adjustments

PTA/PTE Information

Application Number*: 11121760 Search Explanation of PTA Calculation Explanation of PTE Calculation

PTA Calculations for Application: 11121760

Application Filing Date	05/03/2005	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	1319
A Delays	39	PTO Manual Adjustment	246
B Delays	0	Applicant Delay (APPL)	665
C Delays	1280	Total PTA (days)	900

* - 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	12/06/2011		P028	Adjustment of PTA Calculation by PTO	246		0
97	10/20/2011		MN/=.	Mail Notice of Allowance			0
96	10/18/2011		OAR	Office Action Review			0
95	10/18/2011		IREV	Issue Revision Completed			0
94	10/18/2011		DVER	Document Verification			0
93	10/18/2011		N/=.	Notice of Allowance Data Verification Completed			0
92	10/14/2011		CNTA	Allowability Notice			0
83	09/28/2011		ELC_RVW	Electronic Review			0
82	09/28/2011		EML_NTF	Email Notification			0
81	09/28/2011	03/28/2008	MAPDR	Mail BPAI Decision on Appeal - Reversed	1280		54
80	09/26/2011		APDR	BPAI Decision - Examiner Reversed			0
78	05/26/2009		AP_DK_M	Docketing Notice Mailed to Appellant			0
77	05/26/2009		APAS	Assignment of Appeal Number			0
76	02/23/2009		APWD	Appeal Awaiting BPAI Docketing			0
75	02/17/2009		MRBNE	Mail Reply Brief Noted by Examiner			0
74	02/13/2009		RBNE	Reply Brief Noted by Examiner			0
73	01/26/2009		FWDX	Date Forwarded to Examiner			0
72	01/07/2009		APRB	Reply Brief Filed			0
71	12/11/2008		PACC	Exam. Ans. Review Complete			0
70	11/18/2008		MAPEA	Mail Examiner's Answer			0
69	11/15/2008		APEA	Examiner's Answer to Appeal Brief			0
68	08/12/2008		APBR	Appeal Brief Review Complete			0
67	08/12/2008		FWDX	Date Forwarded to Examiner			0
66	07/30/2008		AP.B	Appeal Brief Filed			0
65	07/23/2008		APBD	Notice -- Defective Appeal Brief			0
64	07/18/2008		APBR	Appeal Brief Review Complete			0
63	07/18/2008		FWDX	Date Forwarded to Examiner			0
62.1	07/11/2008		APBI	Defective / Incomplete Appeal Brief Filed			0
62	07/11/2008		AP.B	Appeal Brief Filed			0
61	06/30/2008		MM327	Mail Miscellaneous Communication to Applicant			0
60	06/28/2008		M327	Miscellaneous Communication to Applicant - No Action Count			0
57	06/12/2008		MAPCP	Mail Appeals conf. Proceed to BPAI			0
56	06/10/2008		APCP	Pre-Appeals Conference Decision - Proceed to BPAI			0
53	05/19/2008		FWDX	Date Forwarded to Examiner			0
52	05/19/2008		MNRAB	Mail Notice of Rescinded Abandonment			0
51	05/19/2008		NRAB	Notice of Rescinded Abandonment in TCs			0
50	05/19/2008		MPREV	Mail-Petition to Revive Application - Granted			0
49	05/19/2008	07/26/2007	PREV	Petition to Revive Application - Granted		298	32
55	03/28/2008		AP.C	Request for Pre-Appeal Conference Filed			0
54	03/28/2008	03/27/2007	N/AP	Notice of Appeal Filed		367	26
48	03/28/2008		PET.	Petition Entered			0
47	03/17/2008		MPTDI	Mail-Petition Decision - Dismissed			0
46	03/17/2008		PTDI	Petition Decision - Dismissed			0
58	11/05/2007		IDSC	Information Disclosure Statement considered			0

44	11/05/2007		M844	Information Disclosure Statement (IDS) Filed		0
35	11/05/2007		WIDS	Information Disclosure Statement (IDS) Filed		0
59	10/25/2007		IDSC	Information Disclosure Statement considered		0
34	10/25/2007		WIDS	Information Disclosure Statement (IDS) Filed		0
45	07/26/2007		LET.	Miscellaneous Incoming Letter		0
33	07/26/2007		PET.	Petition Entered		0
32	07/26/2007		MABN2	Mail Abandonment for Failure to Respond to Office Action		0
31	07/23/2007		ABN2	Aband. for Failure to Respond to O. A.		0
30	04/06/2007		MCTAV	Mail Advisory Action (PTOL - 303)		0
29	04/05/2007		CTAV	Advisory Action (PTOL-303)		0
28	03/29/2007		FWDX	Date Forwarded to Examiner		0
27	03/27/2007		A.NE	Amendment after Final Rejection		0
26	12/27/2006		MCTFR	Mail Final Rejection (PTOL - 326)		0
25	12/22/2006		CTFR	Final Rejection		0
24	11/02/2006		DOCK	Case Docketed to Examiner in GAU		0
23	10/10/2006		FWDX	Date Forwarded to Examiner		0
22	10/09/2006		A...	Response after Non-Final Action		0
21	08/11/2006	07/03/2006	MCTNF	Mail Non-Final Rejection	39	0.5
20	08/07/2006		CTNF	Non-Final Rejection		0
17	08/02/2006		DOCK	Case Docketed to Examiner in GAU		0
19	04/25/2006		IDSC	Information Disclosure Statement considered		0
16	04/25/2006		RCAP	Reference capture on IDS		0
15.7	04/25/2006		M844	Information Disclosure Statement (IDS) Filed		0
15	04/25/2006		WIDS	Information Disclosure Statement (IDS) Filed		0
14	01/06/2006		TSSCOMP	IFW TSS Processing by Tech Center Complete		0
13	01/06/2006		DOCK	Case Docketed to Examiner in GAU		0
10	10/24/2005		TI1050	Transfer Inquiry to GAU		0
18	09/07/2005		IDSC	Information Disclosure Statement considered		0
12	09/07/2005		RCAP	Reference capture on IDS		0
11.7	09/07/2005		M844	Information Disclosure Statement (IDS) Filed		0
11	09/07/2005		WIDS	Information Disclosure Statement (IDS) Filed		0
9	08/02/2005		OIPE	Application Dispatched from OIPE		0
8	08/02/2005		COMP	Application Is Now Complete		0
7	07/21/2005		FLFEE	Payment of additional filing fee/Preexam		0
6	07/21/2005		OATHDECL	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic		0
5	06/20/2005		INCD	Notice Mailed--Application Incomplete--Filing Date Assigned		0
3	06/02/2005		L194	Cleared by OIPE CSR		0
2	05/30/2005		SCAN	IFW Scan & PACR Auto Security Review		0
1	05/03/2005		IEXX	Initial Exam Team nn		0
0.5	05/03/2005		EFILE	Filing date		0

Export to: Excel

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In re Application of
John C. Meade

Application No. 11121810

Filed: May 4,2005

Attorney Docket No. 2003 (306932)

: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 05-NOV-2010 to make the above-identified application special based on applicant's age as set forth in MPEP § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1), MPEP § 708.02, Section IV: Applicant's Age must include a statement by applicant or a registered practitioner having evidence that applicant is at least 65 years of age. No fee is required.

Accordingly, the above-identified application has been accorded "special" status and will be taken up for action by the examiner upon the completion of all pre-examination processing.

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

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

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INTELLECTUAL PROPERTY
DEPARTMENT
CUBIST PHARMACEUTICALS, INC.
65 HAYDEN AVENUE
LEXINGTON MA 02421

MAILED
MAR 12 2012
OFFICE OF PETITIONS

In re Patent No. 7,335,725 :
Issue Date: 26 February, 2008 :
Application No. 11/121,851 : ON PETITION
Filed: 4 May, 2005 :
Attorney Docket No. C058-02/02 US :

This is a decision on the petition filed on 24 January, 2012, under 37 C.F.R. §1.27(g)(2) requesting that status as a Small Entity be removed.

NOTE:

In view of their duty of candor to the Office to properly inquire to ascertain the accuracy of representations made before the Office (*see*: 37 C.F.R. §1.4, §10.18, MPEP §410), Petitioners always are reminded of the responsibility to review their records and submit accurate information to the Office.

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

Petitioner's submission is **ACCEPTED**.

In accordance with the request, status as a Small Entity will be removed, and Petitioner is required to pay fees at the schedule set forth for not-small entities. **The additional fees were charged as authorized.**

Patent No. 7,335,725
Application No. 11/121,851

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Out of an abundance of caution, Petitioners always are reminded that that those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

The instant application is released to the Office of Patent Application Processing (OPAP) for further processing in due course as is necessary before it is released for substantive examination.

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.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 12/23/2011

TO SPE OF : ART UNIT 2156 Pierre Vital (SPE)

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/121859 Patent No.: 8010576

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.

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

Comments: _____

Pierre Vital
SPE

2156
Art Unit

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Alexandria, VA 22313-1450
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HOGLUND & PAMIAS
256 ELEANOR ROOSEVELT STREET
SAN JUAN, PR 00918

MAILED
SEP 03 2010
OFFICE OF PETITIONS

In re Application of	:	
Alexis V. Torres et al	:	
Application No. 11/121,951	:	ON PETITION
Filed: May 4, 2005	:	
Attorney Docket No. AVANT-0700	:	

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

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of 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.

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

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

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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GOWLING LAFLEUR HENDERSON LLP
SUITE 1600, 1 FIRST CANADIAN PLACE
100 KING STREET WEST
TORONTO ON M5X 1G5 CA CANADA

MAILED

MAR 21 2011

OFFICE OF PETITIONS

In re Application of	:	
Mark Baldwin, et al.	:	
Application No. 11/122,091	:	DECISION ON PETITION
Filed: May 5, 2005	:	TO WITHDRAW
Attorney Docket No. T8471195US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 3, 2011.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request cannot be approved because the practitioner(s) requesting the withdrawal have not certified that they (1) have given reasonable notice to the client, prior to the expiration of the response period that the practitioner(s) intend to withdraw from employment. The failure to do so may subject the practitioner to discipline. It is also noted that false certification may violate a practitioners' duty under 37 CFR 10.23(b)(4) and (b)(5).

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

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

All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

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

cc: MARK BALDWIN, PhD
DEPARTMENT OF PSYCHOLOGY
MCGILL UNIVERSITY
1205 DOCTEUR PENIFIELD
MONTREAL QUEBEC H3A 1B1
CANADA

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SUITE 1600, 1 FIRST CANADIAN PLACE
100 KING STREET WEST
TORONTO ON M5X 1G5 CA CANADA

MAILED
MAY 3 1 2011
OFFICE OF PETITIONS

In re Application of	:	
Mark Baldwin, et al.	:	
Application No. 11/122,091	:	DECISION ON PETITION
Filed: May 5, 2005	:	TO WITHDRAW
Attorney Docket No. T8471195US	:	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 May 11, 2011.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request was signed by Shahrzad Esmaili on behalf of all attorneys of record who are associated with customer No. 26912. All attorneys/agents associated with the Customer Number 26912 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 12, 2011 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: MARK BALDWIN, PhD
DEPARTMENT OF PSYCHOLOGY
MCGILL UNIVERSITY
1205 DOCTEUR PENIFIELD
MONTREAL QUEBEC H3A 1B1
CANADA

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/122,091	05/05/2005	Mark Baldwin	T8471195US

CONFIRMATION NO. 5275

POWER OF ATTORNEY NOTICE

26912
GOWLING LAFLEUR HENDERSON LLP
SUITE 1600, 1 FIRST CANADIAN PLACE
100 KING STREET WEST
TORONTO, ON M5X 1G5
CANADA

OC000000047724534

Date Mailed: 05/18/2011

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/11/2011.

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

/amwise/

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

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Winston & Strawn LLP
1111 Louisiana, 25th Floor
Houston TX 77002-5242

MAILED

JUN 02 2011

OFFICE OF PETITIONS

In re Application of: :
Ruben Garcia Cruz :
Application No. 11/122,140 : PETITION DECISION
Filed: May 4, 2005 :
Attorney Docket No. 13538.0003.DVUS02 :

This is a decision on the Petition to File Declaration Under 37 CFR 1.131, filed January 18, 2011 which is being treated as a petition under **37 CFR 1.183** to waive the requirements of 37 CFR 1.131.

The petition is **DISMISSED.**

37 CFR 1.183 provides that in an extraordinary situation, when justice requires, any requirement of the regulations which is not a requirement of the statutes may be suspended or waived by the Commissioner. A petition filed under 37 CFR 1.183 requires a petition fee set forth in § 1.17(f) which is currently $400.

The instant petition was filed with a petition fee of $200. A fee authorization was provided with the petition but the additional $200 petition fee could not be charged as Office records indicate petitioner is not authorized to use the deposit account specified in the petition.

No consideration on the merits can be given the petition until the full required fee is received.

Petitioner should note that the statement to the effect that the inventor refuses to sign the declaration was made by a person who is alleged to be representing the assignee but has not provided the necessary statement under 37 CFR 3.73(b) to establish his authority to sign documents on behalf of the assignee.

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

Carl Friedman
Petitions Examiner
Office of Petitions

Cc: Howrey LLP
2941 Fairview Park Drive, Box 7
Falls Church, Virginia 22042

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Winston & Strawn LLP
1700 K Street, NW
Washington DC 20006

MAILED

AUG 09 2011

OFFICE OF PETITIONS

In re Application of :
Ruben Garcia Cruz :
Application No. 11/122,140 : PETITION DECISION
Filed: May 4, 2005 :
Attorney Docket No. 13538.0003.DVUS02 :

This is a decision on the renewed petition, filed August 4, 2011, which is being treated as a petition under 37 CFR 1.183 to waive the requirements of 37 CFR 1.131.

The petition is **DISMISSED.**

The application as-filed identifies the sole inventor as Ruben Garcia Cruz. The petition indicates Cruz refuses to sign the declaration filed under 37 CFR 1.131. Petitioner has filed the instant petition to request waiver of the signature of the unavailable inventor, Cruz.

MPEP 715.04(I) states in part:

> The following parties may make an affidavit or declaration under 37 CFR 1.131:
>
> (D) The assignee or other party in interest when it is not possible to produce the affidavit or declaration of the inventor. Ex parte Foster, 1903 C.D. 213, 105 O.G. 261 (Comm'r Pat. 1903).

And:

> Where one or more of the named inventors of the subject matter of the rejected claim(s) (who had originally signed the oath or declaration for patent application under 37 CFR 1.63) is now unavailable to sign an affidavit or declaration under 37 CFR 1.131, the affidavit or declaration under 37 CFR 1.131 may be signed by the remaining joint inventors provided a petition under 37 CFR 1.183 requesting waiver of the signature of the unavailable inventor be submitted with the affidavit or declaration under 37 CFR 1.131. Proof that the non-signing inventor is unavailable or cannot be found similar to the proof required for a petition under 37 CFR 1.47 must be submitted with the petition under 37 CFR 1.183 (see MPEP § 409.03(d)). Petitions under 37 CFR 1.183 are decided by the Office of Petitions (see MPEP § 1002.02(b)).

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 the non-signing inventor, such that the declaration can be accepted under 37 CFR 1.131. Where inability to find or locate a named inventor is alleged, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made to locate the inventor.

At the very least, petitioner should mail correspondence to the non signing inventor's last known address, return receipt and/or forwarding address requested. If a forwarding address is provided, petitioner should then mail a copy of the affidavit to Cruz's forwarding address, return receipt requested, 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. 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 that an 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 inventor gives a reason for refusing to sign the affidavit, that reason should be stated in the affidavit or declaration.

Petitioner has not demonstrated that the non-signing inventor refuses to sign the declaration. The declaration of Mr. Orozco indicates that Cruz "has generally refused to cooperate with the prosecution...including his refusal to sign this Declaration..." It is not clear if this is merely an assumption on Mr. Orozco's part or if this is a factual determination. See the above noted requirements to show refusal to sign.

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

Carl Friedman
Petitions Examiner
Office of Petitions

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JAN 31 2011

OFFICE OF PETITIONS

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER LP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

In re Patent No. 7,634,143	: DECISION ON REQUEST
Issued: December 15, 2009	: FOR RECONSIDERATION
Application No. 11/122,178	: OF PATENT TERM ADJUSTMENT
Filed: May 4, 2005	: AND
Attorney Docket No. 09812.0459	: NOTICE OF INTENT TO ISSUE
	: CERTIFICATE OF CORRECTION

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT-POST GRANT" filed January 4, 2010, requesting that the patent term adjustment determination for the above-identified patent be changed from 972 days to 1257 days. Applicant requests this correction in part on the basis that the Office will take in excess of three years to issue this patent and in light of the court decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. September 30, 2008).[1]

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is adjusted by one thousand two hundred fifty-seven (1257) days and is **GRANTED**.

The Office acknowledges the authorization to charge the $200.00 fee set forth in 37 CFR 1.18(e) to deposit account no. 06-0916.

The 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 fifty-seven (1257)** days.

Telephone inquiries specific to this decision should be directed to the undersigned Petitions Attorney at (571) 272-8212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

---

[1]Reconsidered in light of the Court of Appeals for the Federal Circuit's decision in *Wyeth v. Kappos*, 2009-1120 (Fed. Cir. 1-7-2010).

DRAFT

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,634,143 B2

DATED : December 15, 2009

INVENTOR(S) : Yasushi Saito

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 (972) days

Delete the phrase "by 972 days" and insert – by 1257 days--

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/122,387	05/04/2005	Vishakan Ponnampalam	361500US8	6788

22850 7590 12/22/2011
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER
BOCURE, TESFALDET

ART UNIT	PAPER NUMBER
2611	

NOTIFICATION DATE	DELIVERY MODE
12/22/2011	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):

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

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Alexandria, VA 22313-1450
www.uspto.gov

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA VA 22314

In re Application of
PONNAMPALAM, VISHAKAN et al.
Application No. **11/122,387**
Filed: **May 4, 2005**
Attorney Docket Number: **361500US8**
For: **MIDAMBLE ALLOCATIONS FOR MIMO TRANSMISSIONS**

DECISION ON PETITION
FOR CONSIDERATION OF IDS

This is a decision on the petition, filed October 14, 2011, under 37 CFR 1.181 to consider references cited in the Information Disclosure Statement filed May 20, 2011.

The Petitioner seeks to have considered references that were included in the Information Disclosure Statement filed on October 20, 2009, but not considered by the examiner.

DECISION

A review of the application file reveals that a letter including an initialed copy if the Information Disclosure Statement filed on October 20, 2009, was entered on December 20, 2011. As such, the subject references have been considered, and said consideration is reflected in the application file. Therefore, the petition is **DISMISSED AS MOOT**.

The application will proceed to issue.

Any inquiry regarding this decision should be directed to Daniel Swerdlow, Quality Assurance Specialist, at (571) 272-7531.

/Daniel Swerdlow/

Daniel Swerdlow
Quality Assurance Specialist
Technology Center 2600
Communications

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KENYON & KENYON LLP
ONE BROADWAY
NEW YORK NY 10004

MAILED

JAN 07 2011

OFFICE OF PETITIONS

In re Application of
Martin Vorbach et al.
Application No. 11/122,500
Filed: May 4, 2005
Attorney Docket No. 2885/95

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3)

This is a decision on the renewed petition filed June 10, 2010, under 37 CFR 1.78(a)(3) to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of prior-filed non-provisional application nos. 10/764,159, 10/191,926, and 09/623,052 as set forth in the concurrently filed Supplemental Amendment.

The renewed petition is **DISMISSED**.

> A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:
>
> **(1)** the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
> **(2)** the surcharge set forth in § 1.17(t); and
> **(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

Petitions filed August 14, 2009 and October 13, 2009 were dismissed in decisions mailed September 25, 2009 and February 16, 2010, respectively, because the petitions did not satisfy item (1) above. Specifically, the specification provided on filing did not incorporate by reference non-provisional application nos. 10/764,159, 10/191,926, and 09/623,052 as did the amendments filed with the August 14, 2009 and October 13, 2009 petitions. In a renewed petition filed March 2, 2010, there was no co-pendency between the instant application, 11/122,500 filed May 4, 2005 and application no.

09/623,113 which issued May 27, 2003, therefore, the reference as set forth above in item (1) was also considered lacking.

Comes now petitioner with the instant renewed petition and an amendment to amend the specification to include the reference to the prior-filed applications required by 35 U.S.C. §120 and 37 C.F.R. §1.78(a)(2). While the reference to application no. 09/623,113 has been removed, the amendment filed concurrently still includes an improper reference.

An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 120 after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 120 is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

The specification provided on filing did not incorporate by reference non-provisional application nos. 10/764,159, 10/191,926, and 09/623,052 however, the amendment filed reads ".....which is a continuation application of U.S. Patent Application Serial No. 09/623,052, filed January 9, 2001, which issued as U.S. Patent No. 6,480,937 and which is a national stage entry of International Patent Application No. PCT/DE99/O0504, the full content of which International patent application is incorporated herein by reference in its entirety".

Before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition and either a Supplemental Application Data Sheet (signed in compliance with 37 CFR 1.33(b) and in compliance with 37 CFR 1.76) or a substitute amendment (complying with the provisions of 37 CFR 1.121) to correct the above matters are required.

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

By mail: Mail Stop PETITIONS
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Alexandria, VA 22314

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

Any questions concerning this matter may be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

Chris Bottorff
Supervisor
Office of Petitions

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KENYON & KENYON LLP
ONE BROADWAY
NEW YORK NY 10004

MAILED
MAR 25 2011
OFFICE OF PETITIONS

In re Application of
Martin Vorbach et al.
Application No. 11/122,500
Filed: May 4, 2005
Attorney Docket No. 2885/95

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3)

This is a decision on the renewed petition filed January 27, 2011, under 37 CFR 1.78(a)(3) to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of prior-filed non-provisional application nos. 10/764,159, 10/191,926, and 09/623,052 as set forth in the concurrently filed Supplemental Amendment.

The renewed petition is **GRANTED**.

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

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

Petitions filed August 14, 2009, October 13, 2009, and June 10, 2010 were dismissed in decisions mailed September 25, 2009, February 16, 2010 and January 7, 2011, respectively, because the petitions did not satisfy item (1) above. Specifically, the specification provided on filing did not incorporate by reference non-provisional application nos. 10/764,159, 10/191,926, and 09/623,052 as did the amendments filed with the August 14, 2009 and October 13, 2009 petitions. In a renewed petition filed March 2, 2010, there was no co-pendency between the instant application, 11/122,500 filed May 4, 2005 and application no. 09/623,113 which issued May 27, 2003, therefore, the reference as set forth above in item (1) was also considered lacking.

Comes now petitioner with the instant renewed petition with a request to accept the amendment filed June 10, 2010 to amend the specification to include the reference to the prior-filed applications required by 35 U.S.C. §120 and 37 C.F.R. §1.78(a)(2).

All the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 is accepted as being unintentionally delayed.

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

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

Any inquiries concerning this decision may be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center Art Unit 2116 for appropriate action on the amendment filed June 10, 2010, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. 120 to the prior-filed applications.

Chris Bottorff

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
11/122,500	05/04/2005	2116	610	2885/95	3	3

CONFIRMATION NO. 6641

CORRECTED FILING RECEIPT

26646
KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

OC000000045331707

Date Mailed: 03/25/2011

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)

Martin Vorbach, Munchen, GERMANY;
Volker Baumgarte, Munchen, GERMANY;
Gerd Ehlers, Grasbrunn, GERMANY;
Frank May, Munchen, GERMANY;
Armin Nuckel, Neupotz, GERMANY;

Power of Attorney: None

Domestic Priority data as claimed by applicant

This application is a CON of 10/297,959 06/19/2003 PAT 7,003,660
and is a CIP of 10/764,159 01/23/2004 PAT 6,990,555
which is a CON of 10/191,926 07/09/2002 PAT 6,687,788
which is a CON of 09/623,052 01/09/2001 PAT 6,480,937
which is a 371 of PCT/DE99/00504 02/25/1999
and said 10/297,959 06/19/2003
is a 371 of PCT/EP01/06703 06/13/2001

Foreign Applications (You may be eligible to benefit from the **Patent Prosecution Highway** program at the USPTO. Please see http://www.uspto.gov for more information.)
GERMANY 100 28 397.7 06/13/2000
GERMANY 101 10 530.4 06/13/2001
GERMANY 198 07 872.2 02/25/1998

If Required, Foreign Filing License Granted: 05/31/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/122,500**

Projected Publication Date: Not Applicable

Non-Publication Request: No

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

Pipeline configuration protocol and configuration unit communication

Preliminary Class

711

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

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

NOT GRANTED

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

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MAILED

MAR 29 2011

OFFICE OF PETITIONS

In re Application of	:	
Jonathan G. Wolfman et al.	:	
Application No. 11/122,547	:	DECISION ON PETITION
Filed: May 5, 2005	:	
Attorney Docket No. **F-849-01**	:	

This is a decision on the petition, filed September 1, 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 was held abandoned for failure to reply to the final Office action of November 30, 2009, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on August 26, 2010.

Petitioner contends that the Notice of Abandonment was mailed in error since a timely reply (Notice of Appeal) was filed by way of the Office Electronic Filing System (EFS) having an EFS Receipt ID of 7091925. A review of the application file the record confirms a receipt by way of EFS of a reply on February 25, 2010, bearing the EFS Receipt ID 7091925. However, the documents included therewith list an application number 11/378,562.

Petitioner states in the instant petition that "it is possible that the wrong PDF file was attached." Therefore, since the reply filed February 15, 2010, was directed to a different application, the reply will not be entered in the instant application as being a timely filed reply.

The instant application was properly held abandoned for failure to timely file a proper reply to the final Office action of November 30, 2009. The application became abandoned by law on March 1, 2010. Accordingly, the instant petition to withdraw the holding of abandonment cannot be granted at this time.

ALTERNATIVE VENUE

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

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

> (1) The reply required to the outstanding Office action or notice, unless previously filed. In nonprovisional utility application abandoned for failure to respond to a non-final Office action, the required reply may be met by filing either (A) an argument or amendment under 37 CFR 1.111 or (B) a continuing application under 37 CFR 1.53(b).
>
> (2) The petition fee as set forth in 37 CFR 1.17(m), **$810 for a small entity**;
>
> (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

A form for filing a petition to revive an unintentionally abandoned application accompanies this decision for petitioner's convenience. If petitioner desires to file a petition under 37 CFR 1.137(b) instead of filing a request for reconsideration, petitioner must complete the enclosed petition form (PTO/SB/64) and pay the $810 petition fee.

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

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Alexandria, VA 22313-1450

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

By hand: Customer Service Window
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Telephone inquiries related to this decision may be directed to the JoAnne Burke at (571) 272-4584.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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

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In re Patent No. 8,071,155
Scheuermann
Issue Date: December 6, 2011
Application No. 11/122,583
Filed: May 5, 2005
Attorney Docket No. 10527-571001
Title: MEDICAL DEVICES AND METHODS OF MAKING THE SAME

DECISION ON REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT

This is a decision on the petition filed on February 6, 2012, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by two hundred eleven (211) days.

The request for reconsideration of the patent term adjustment (PTA) pursuant to 37 CFR 1.705(d) is **DISMISSED**.

The above-identified application matured into U.S. Pat. No. 8,071,155 on December 6, 2011. The patent issued with a patent term adjustment of 82 days. The instant application for patent term adjustment was timely filed in accordance with 37 CFR 1.705(d). Patentees contest the period of adjustment of 0 days accorded pursuant to 37 CFR 1.702(b) and assert that the correct period of adjustment under 37 CFR 1.702(b) is 127 days. Patentees also dispute the 2 day reduction for the submission of the response on August 13, 2007.

As to patentees' arguments regarding the 2 day reduction, patentees' argument is untimely. Issues that should have been raised on application for patent term adjustment under 37 CFR 1.705(b) are untimely if first raised on request for reconsideration under 37 CFR 1.705(d). Issues under 37 CFR 1.705(d) are those tied to the revised determination calculated

after the mailing of the notice of allowance. As such challenges to calculations determined prior to the notice of allowance (and reflected in the determination sent with the notice of allowance) are untimely when first presented under 1.705(d).

Patentees' arguments have been carefully considered, but are not persuasive. The period of adjustment pursuant to 37 CFR 1.702(b) was properly calculated at 0 days.

35 USC 154(b)(1)(B) states in relevant part:

Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including — (i) any time consumed by continued examination of the application requested by the applicant under section 132(b).

37 CFR 1.702(b) states in relevant part:

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

37 CFR 1.703(b) states in relevant part:

The period of adjustment under § 1.702(b) is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the sum of the following periods: (1) The number of days, if any, in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued.

Counting the period of time excluded from the "B delay" for the filing of a request for continued examination under 35 U.S.C. 132(b), from the date on which the request for continued examination is filed to the date the patent is issued is proper. Patentee does not dispute that time consumed by continued examination of an application under 35 U.S.C. 132(b) is properly excluded and that the calculation of the excluded period begins on the date of filing of the request for continued examination. At issue is what further processing or examination beyond the date of filing of the request for continued examination is time consumed by continued examination of the application under 35 U.S.C. 132(b). The USPTO indicated in September of 2000 in the final rule to implement the patent term adjustment provisions of the AIPA that once a request for continued examination under 35 U.S.C. 132(b) and 37 CFR 1.114 is filed in an application, any further processing or examination of the application, including granting of a patent, is by virtue of the continued examination given to the application under 35 U.S.C. 132(b) and CFR 1.114. See Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term, 65 Fed. Reg. 56365, 56376 (Sept. 18, 2000) (response to comment 8). Thus, the excluded period begins with the filing of the request for continued examination and ends with the issuance of the patent.

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

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

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

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

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

Furthermore, these clauses are interpreted using their ordinary meanings. Nonetheless, the context of the legislation should be considered. As stated in Wyeth v. Dudas, No. 07-1492, 2008 U.S. Dist. LEXIS 76063 (D.D.C., September 30, 2008), because the clock for calculating the 20-year patent term begins to run on the filing date, and not on the day the patent is actually granted, some of the effective term of a patent is consumed by the time it takes to prosecute the application. To mitigate this First, "Subject to the limitations of paragraph (2)," means that the limitations of paragraph 2 apply to this paragraph's

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

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

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

---

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

patent term will accrue for each day that the application is pending until the day the patent is issued.

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

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

subsequently appears that the applicant is entitled to a patent (e.g., in response to an argument or amendment by the applicant), the USPTO will issue a notice of allowance. Conversely, if after the issuance of a notice of allowance under 35 U.S.C. 151 it subsequently appears that the applicant is not entitled to a patent (e.g., in response to information provided by the applicant or uncovered by the USPTO), the USPTO will withdraw the application from issuance and issue an Office action under 35 U.S.C. 132 stating the applicable rejection, objection, or other requirement, with the reasons therefor.

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

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

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

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

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

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

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

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

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

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

Charlema Grant

Charlema Grant
Attorney Advisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SEP 2 1 2010

OFFICE OF PETITIONS

SHAY GLENN LLP
2755 CAMPUS DRIVE
SUITE 210
SAN MATEO CA 94403

In re Application of	:	
Hinman, Cameron D.	:	
Application No. 11/122,598	:	DECISION ON PETITION
Filed: May 04, 2005	:	TO WITHDRAW
Attorney Docket No. **10112-708.501**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 17, 2010.

The request is **NOT APPROVED.**

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

Accordingly, the request to withdraw from record cannot be approved because the request to change the correspondence address is not that of: (1) the first named inventor; or (2) an assignee of the entire interest under 37 C.F.R 3.71 who has properly intervened.

If an assignee has intervened in this application, then an updated Statement under 37 CFR 3.73(b) or a copy of the actual assignment must be submitted with a renewed request.

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

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4618.

/Tredelle D. Jackson/

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

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

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 2010

OFFICE OF PETITIONS

CHARLES G. CALL
361 WILD COFFEE LN
MARCO ISLAND FL 34145-1849

In re Application of
Nathan Norfleet Eagle, et al.
Application No. 11/122,630
Filed: May 5, 2005
Attorney Docket No.: F-16

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed October 27, 2010.

The petition is not signed by a registered patent attorney or patent agent of record. However, in accordance with 37 CFR 1.34, the signature of Charles G. Call 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.

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue and publication fees on or before September 24, 2010, as required by the Notice of Allowance and Fee(s) Due mailed June 24, 2010. A Notice of Abandonment was mailed on October 7, 2010. On October 27, 2010, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the $1,510 issue fee and $300 publication fee; (2) the petition fee of $1,620; and (3) an adequate statement of unintentional delay.

The application is being referred to the Office of Data Management to be processed into a patent.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing as a patent should be directed to (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES 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.

Wellstat Management Company. LLC
LEGAL DEPARTMENT
930 CLOPPER ROAD
GAITHERSBURG MD 20878

MAILED
SEP 13 2010
OFFICE OF PETITIONS

In re Patent No. 7,595,042	: DECISION ON REQUEST
Groene et al.	: FOR
Issue Date: September 29, 2009	: RECONSIDERATION OF
Application No. 11/122,690	: PATENT TERM ADJUSTMENT
Filed: May 5, 2005	: and
Atty Docket No. 18020-C1	: NOTICE OF INTENT TO ISSUE
	: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on November 24, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by eight hundred seventy-six (876) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by eight hundred seventy-six (876) days is **GRANTED**.

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

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **eight hundred seven-six** (876) 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 : 7,595,042 B2

DATED : **September 29, 2009** **DRAFT**

INVENTOR(S) : Groene 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 495 days

Delete the phrase "by 495 days" and insert – by 876 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

February 13, 2012

FULBRIGHT & JAWORSKI L.L.P.
98 SAN JACINTO BOULEVARD
SUITE 1100
AUSTIN TX 78701-4255

In re Application of	:	
TSCHIRREN, JUERG et, al	:	**DECISION ON PETITION**
Application No. 11/122,974	:	
Filed: 05/05/2005	:	***ACCEPTANCE OF COLOR***
Attorney Docket No. IOWA: 069US	:	***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 05, 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, (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 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 requirements above. 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

CHOATE, HALL & STEWART LLP
TWO INTERNATIONAL PLACE
BOSTON MA 02110

MAILED

JAN 19 2011

OFFICE OF PETITIONS

In re Application of	:	
CHEMTOB, Sylvain et al.	:	
Application No. 11/122,989	:	DECISION ON PETITION
Filed: May 05, 2005	:	TO WITHDRAW
Attorney Docket No. **2008693-0021**	:	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 17, 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

cc: **GOUDREAU GAGE DUBUC**
2000 MCGILL COLLEGE
SUITE 2200
MONTREAL, CANADA H3A 3-H3

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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LAW OFFICES OF ALBERT WAI-KIT CHAN, PLLC
141-07 20TH AVENUE
WORLD PLAZA, SUITE 604
WHITESTONE NY 11357

MAILED
AUG 17 2011
OFFICE OF PETITIONS

In re Application of
Wong et al
Application No. 11/123,152
Filed: May 6, 2005
Attorney Docket No.: 1549-US
For: COMPOSITIONS CONTAINING AN ACTIVE FRACTION ISOLATED FROM LYCIUM BARBARUM AND METHODS OF USING THE SAME

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 4, 2011, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely submit a proper reply to the Notice of Non-Compliant Amendment (37 CFR 1.121) mailed on July 12, 2010. The Notice set an extendable one-month reply period of August 12, 2010. No timely extension of time pursuant to 37 CFR 1.136 was obtained. The application became abandoned on August 13, 2010. A Notice of Abandonment was mailed on January 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 an amendment, (2) the petition fee of $810.00, and (3) a statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR §10.18(b). In the event that such an inquiry has not been made, Petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR §1.137(b) was unintentional, petitioner must notify the Office.

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

This application is being referred to Technology Center AU 1655 for appropriate action by the Examiner in the normal course of business on the reply received

Charlema Grant
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20120309

DATE : March 09, 2012

TO SPE OF : ART UNIT 3766

SUBJECT : Request for Certificate of Correction on Patent No.: 7571010

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:

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)
7007988	2006-03-07	11123433	2005-05-06	

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 L Farris/	Date (YYYY-MM-DD)	2010-09-29
Name	Robert L. Farris	Registration Number	25112

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. 7007988
Issue Date: March 7,2006
Application No. 11123433
Filed: May 6,2005
Attorney Docket No.

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

This is a decision on the electronic petition, filed September 29,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of September 29,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Spectra Logic Corporation
6285 Lookout Road
Boulder CO 80301

MAILED
DEC 19 2011
OFFICE OF PETITIONS

In re Application of	:	
Richard Douglas Rector et al.	:	
Application No. 11/123,725	:	DECISION ON PETITION
Filed: May 6, 2005	:	
Attorney Docket No. 3023827 US02	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 2, 2011, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before October 24, 2011, as required by the Notice of Allowance and Fee(s) Due, mailed July 22, 2011. Accordingly, the date of abandonment of this application is October 25, 2011. A Notice of Abandonment was mailed on November 4, 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 $870 and the publication fee of $300, (2) the petition fee of $930, and (3) a proper statement of unintentional delay. Accordingly, the issue and publication fees are accepted as being unintentionally delayed.

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

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

/Kimberly A. Inabinet/

Kimberly A. Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JONES DAY
222 EAST 41ST ST
NEW YORK, NY 10017

MAILED
NOV 07 2011
OFFICE OF PETITIONS

In re Application of
John E. Edwards Jr. et al
Application No. 11/123,873
Filed: May 5, 2005
Attorney Docket No. 066742-0036

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 October 28, 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 John E. Edwards Jr. 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 1645 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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KILPATRICK TOWNSEND & STOCKTON LLP
TWO EMBARDADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

MAILED

SEP 06 2011

OFFICE OF PETITIONS

In re Application of	:	
GREENE, et al	:	
Application No. 11/123,965	:	DECISION ON PETITION
Filed: May 6, 2005	:	
Attorney Docket No. 85312-688510 (005100US)	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue and publication fees on or before August 16, 2011, as required by the Notice of Allowance and Fee(s) Due, mailed May 16, 2011, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on August 17, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1510 and publication fee of $300; (2) the petition fee of $1620; and (3) the required statement of unintentional delay.

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

SEP 02 2010

OFFICE OF PETITIONS

TROUTMAN SANDERS LLP
THE CHRYSLER BUILDING
405 LEXINGTON AVENUE
NEW YORK NY 10174

In re Application of	:	
David M. BARCELOU	:	
Application No. 11/123,982	:	DECISION ON PETITION
Filed: May 06, 2005	:	
Attorney Docket No. **236263-000031**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 11, 2010, to revive the above-identified application, 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 alleged failure to file a timely response to the Final Office action of December 16, 2008. A Notice of abandonment was mailed December 17, 2009. Petitioner contends that the "application was erroneously marked abandoned" as a Notice of Appeal was timely filed on June 15, 2009.

A review of the file record of the instant application shows that a Notice of Appeal was timely filed on June 15, 2009.

In view of the above, the Notice of Abandonment of December 17, 2009, is hereby vacated and the application is restored to pending status.

The petition fee of $810 included with petition is unnecessary and is being credited to Deposit Account 20-1507 as authorized.

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

This application is being referred to the Technology Center AU 3714 for processing of the Request for Continued Examination and for appropriate action by the Examiner in the normal

course of business on the amendment submitted in accordance with 37CFR 1.114, concurrently with the instant petition.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Troutman Sanders LLP
The Chrysler Building
405 Lexington Avenue
New York NY 10174

MAILED
MAY 20 2011
OFFICE OF PETITIONS

In re Application of	:	
David M. Barcelou	:	
Application No. 11/123,982	:	ON PETITION
Filed: May 6, 2005	:	
Attorney Docket No. ATL1CON1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 16, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the final Office action mailed, September 15, 2010, which set a shortened statutory period for reply of three (3) months. A three month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on December 16, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal, with the required fee of $270 (2) the petition fee of $810, and (3) a proper statement of unintentional delay. Accordingly, the Notice of Appeal is accepted as being unintentionally delayed.

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

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

This application is being referred to the Board of Patent Appeals and Interferences for appropriate action in the normal course of business for processing of the Reply received March 16, 2011.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SCHOX PLC
500 3RD STREET, SUITE 515
SAN FRANCISCO, CA 94107

MAILED

MAR 01 2011

OFFICE OF PETITIONS

In re Application of	:	
Fisher et al.	:	
Application No. 11/124,401	:	ON PETITION
Filed: May 6, 2005	:	
Attorney Docket No. ARDI-P01	:	

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

The petition is **DISMISSED**.

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

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of April 7, 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 8, 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); and (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item (1), the required reply.

It is noted that an amendment was included with the petition filed on December 15, 2010. However, the amendment is considered non-responsive since the amendment does not place the application in condition for allowance. See the attached Advisory Action. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). *See* MPEP 711.03(c)(II)(A)(2).

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

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

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

By Internet: EFS-Web[1]

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

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

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

Enclosure: Advisory Action

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

Advisory Action Before the Filing of an Appeal Brief	Application No. 11/124,401	Applicant(s) FISHER ET AL.	
	Examiner Raymond Alejandro	Art Unit 1727	

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

THE REPLY FILED 15 December 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

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

NOTICE OF APPEAL

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

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☒ They present additional claims without canceling a corresponding number of finally rejected claims.
   NOTE: *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: *1,7-12 and 18-20*.
   Claim(s) withdrawn from consideration: *21-30*.

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: _____.

/Raymond Alejandro/
Primary Examiner, Art Unit 1727

Continuation of 3. NOTE: a) the proposed amendment to independent claims 1 and 12 substantially modifies the original scope thereof in terms of structure and functionality; b) the scope of dependent claims 7-11 and 18-20 is substantially modified by the proposed amendment as those claims now appear to have been amended to be directed to "an apparatus" itself instead of "an article of clothing" as originally intended; c) NEW CLAIMS 31-36 include new limitations requiring further search and/or consideration.

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SCHOX PLC
500 3RD STREET, SUITE 515
SAN FRANCISCO, CA 94107

MAILED
APR 29 2011
OFFICE OF PETITIONS

In re Application of	:	
Fisher et al.	:	
Application No. 11/124,401	:	ON PETITION
Filed: May 6, 2005	:	
Attorney Docket No. ARDI-P01	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed March 7, 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 7, 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 8, 2010. A Notice of Abandonment was mailed January 4, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) including the 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) 272-6059.

This application is being referred to Technology Center AU 1727 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

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

DICKSTEIN SHAPIRO LLP
1825 EYE STREET NW
WASHINGTON DC 20006-5403

MAILED
AUG 05 2010
OFFICE OF PETITIONS

In re Application of	:	
Janning, John Louis	:	
Application No. 11/124,459	:	ON PETITION
Filed: May 6, 2005	:	
Attorney Docket No. J5460.0028.P028	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed July 6, 2010, to revive the above-identified application.

The petition is **GRANTED**.

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

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

The Notice of Appeal filed July 6, 2010, has been entered and made of record. Accordingly, the 2-month period for filing the appeal brief accompanied by the fee required by law, runs from the date of this decision.

This matter is being referred to Technology Center AU 2821 for further processing.

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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MAIL

AUG 16 2010
DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

AGILENT TECHNOLOGIES INC.
INTELLECTUAL PROPERTY ADMINISTRATION,LEGAL DEPT.
MS BLDG. E P.O. BOX 7599
LOVELAND CO 80537

In re Application of Li, Ruihua *et al* Serial No.: 11/124500 Filed: May 6th, 2005 For: **SYSTEMS, TOOLS AND METHODS FOR FOCUS AND CONTEXT VIEWVING OF LARGE COLLECTIONS OF GRAPHS**	: : : : : : : :	DECISION ON PETITION *ACCEPTANCE OF COLOR* OF COLOR DRAWINGS

This is a decision on the petition under 37 CFR §1.184(a)(2), filed May 6, 2005 requesting acceptance of color drawings.

The petition requests that the color drawings identified in FIGS. 1,23,4,5a,5b,6a,6b,7 be accepted in lieu of black and white drawings.

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

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

The petition is GRANTED.

Kenneth Wieder
Quality Assurance Specialist
Technology Center 2600
Communications

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.
11/124,500	05/06/2005	Robert Kincaid	10040820-1	1025

22878 7590 08/18/2010
Agilent Technologies, Inc. in care of:
CPA Global
P. O. Box 52050
Minneapolis, MN 55402

EXAMINER
CHOW, JEFFREY J

ART UNIT	PAPER NUMBER
2628	

NOTIFICATION DATE	DELIVERY MODE
08/18/2010	ELECTRONIC

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

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

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

IPOPS.LEGAL@agilent.com
Agilentdocketing@cpaglobal.com

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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NOVARTIS VACCINES AND DIAGNOSTICS INC.
INTELLECTUAL PROPERTY- X100B
P.O. BOX 8097
Emeryville CA 94662-8097

MAILED

AUG 27 2010

OFFICE OF PETITIONS

In re Patent of Zur Megede et al.	: DECISION ON REQUEST FOR
Patent No. 7,622,125	: RECONSIDERATION OF
Issue Date: November 24, 2009	: PATENT TERM ADJUSTMENT
Application No. 11/124,602	: AND NOTICE OF INTENT TO ISSUE
Filed: May 5, 2005	: CERTIFICATE OF CORRECTION
Atty. Docket No. PP22640.002	:

This is a decision on the petition filed January 21, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by six hundred fifty-three (653) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by six hundred fifty-three (653) days is **GRANTED to the extent indicated herein**.

Patentees' assertion of 653 days of patent term adjustment appears to be derived from the following formula: 459 days A Delay plus 391 days B Delay minus 197 days Applicant Delay.

The maximum period of delay under 35 U.S.C. § 154(b)(1)(B) ("B Delay") is 391 days, beginning on May 6, 2008, the day after three years after the application's filing date, and ending on May 31, 2009, the day before a Request for Continued Examination was filed. However, patentees fail to subtract the 6 day overlapping period of delay beginning on May 8, 2008 and ending on May 13, 2008 already accounted for under 35 U.S.C. § 154(b)(1)(A) ("A Delay").

Accordingly, the correct patent term adjustment is 647 days (459 days A Delay plus 391 days B-max Delay minus 6 overlapping days minus 197 days 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 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 file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **six hundred forty-seven (647)** 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: LISA M. HEMMENDINGER
BANNER & WITCOFF, LTD.
1100 13TH STREET, N.W.
SUITE 1200
WASHINGTON, DC 20005-4051

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,622,125 B2

DATED : **November 24, 2009** **DRAFT**

INVENTOR(S) : Zur Megede 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 262 days

Delete the phrase "by 262 days" and insert – by 647 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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NOV 23 2011

OFFICE OF PETITIONS

WHITAKER CHALK SWINDLE & SCHWARTZ PLLC
301 COMMERCE STREET
Suite 3500
FORT WORTH TX 76102-4186

In re Application of :
Rajan K. VEMPATI et al. : ON PETITION
Application No. 11/124,742 :
Filed: May 9, 2005 :
Atty. Docket No.: 20469.010

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice of Allowance and Fee(s) Due and Notice of Allowability mailed July 11, 2011 (Notice), which set a statutory period for reply of three (3) months. The application became abandoned October 12, 2011. A Notice of Abandonment was mailed October 24, 2011.

The petition satisfies the conditions for revival pursuant to 37 CFR 1.137(b) by including (1) a reply in the form of payment of the issue and publication fee, and submission of replacement drawings as required by the Notice mailed July 11, 2011, (2) a petition fee of $930, and (3) a statement of unintentional delay. The reply to the Notice is accepted as having been unintentionally delayed.

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 Office of Data Management.

Robert DeWitty
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

Searete LLC
Suite 110
1756 - 114th Ave. S.E.
Bellevue WA 98004

MAILED
SEP 20 2010
OFFICE OF PETITIONS

In re Application of	:	
Ferren et al.	:	
Application No. 11/124,924	:	ON APPLICATION FOR
Patent No. 7,596,073	:	PATENT TERM ADJUSTMENT
Filed: May 9, 2005	:	
Issued: September 29, 2009	:	
Atty Docket No. 1103-006-	:	
010A-000000	:	
Title: METHOD AND SYSTEM FOR	:	
FLUID MEDIATED DISK	:	
ACTIVATION AND DEACTIVATION	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH*," filed June 16, 2010. Patentee requests that the patent term adjustment be decreased from seven hundred and forty (740) days to six hundred and sixty-three (663) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by six hundred and sixty-three (663) days is **GRANTED**.

Application No. 11/124,924 matured into U.S. patent No. 7,596,073 on September 29, 2009, with a patent term adjustment of 232 days. On March 24, 2010, Patentee filed a Request for Recalculation of Patent Term Adjustment in view of Wyeth. On April 21, 2010, the Office mailed a "DECISION ON REQUEST FOR RECALCULATION of PATENT TERM ADJUSTMENT IN VIEW OF WYETH AND NOTICE OF INTENT TO ISSUE CERTIFICATE OF CORRECTION," indicating that the patent term adjustment had been determined to be 718 days. On May 18, 2010, the Office mailed a "NOTICE CONCERNING

IMPROPER CALCULATION OF PATENT TERM ADJUSTMENT BASED UPON USPTO IMPROPERLY MEASURING REDUCTION PERIOD UNDER 37 CFR 1.404(c)(10), vacating the mailing of April 21, 2010 and indicating that the patent term adjustment had been determined to be 740 days.

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

37 C.F.R. § 1.704(c)(8) sets forth that the following constitutes a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application, and will result in a reduction of the period of adjustment:

> 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

With this petition, Patentee has argued that one additional period of reduction should have been accorded: a response to a requirement for an election of species was filed on November 24, 2008, and an Information Disclosure Statement (IDS) was filed 77 days later on February 9, 2009.

The Office agrees that this constitutes 77 days of applicant delay, pursuant to 37 C.F.R. § 1.704(c)(8).

It follows that the applicant delay totals 357 (59 + 123 + 77 + 98) days.

In view thereof, the patent should have issued with a revised patent term adjustment of 663 days (512 days of Office delay + 508 days of B-delay minus 357 days of applicant delay minus zero overlap).

The Office notes that the decision of May 18, 2010 was issued in error as it accorded Patentee 77 more days of patent term adjustment than were warranted. The present decision <u>supersedes</u> the decision mailed on May 18, 2010.

---

[1] Petition, page 3.

The Office has determined that the patent term adjustment for the above-identified patent is **663 days.** The 77 additional days of adjustment will be removed.

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 **six hundred and sixty-three (663) days.**

The Office acknowledges submission of the $200.00 fee set forth in 37 C.F.R. § 1.18(e). No additional fees are required. The Office thanks Patentee for his good faith and candor in bringing this to the attention of the Office.

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

Anthony Knight
Director
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,596,073 B2

DATED : **September 29, 2009** **DRAFT**

INVENTOR(S) : Ferren

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

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 232 days

Delete the phrase "by 232 days" and insert – by 663 days--

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

SEP 24 2010

OFFICE OF PETITIONS

FRANCOIS OKEH
APT 207
35 WOODRIDGE CRESCENT
OTTAWA ON K2B 7T5 CA CANADA

In re Application of Francois Okeh Application No. 11/124,959 Filed: May 10, 2005 Title: Internet Based Media Disc Mastering and Distribution System	: : : : :	ON PETITION

This is in response to petition to revive an unintentionally abandoned application under 37 CFR 1.137(b), filed August 4, 2010.

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

The above-identified application became abandoned for failure to timely file a proper response to the final Office action mailed September 2, 2009, which set a shortened statutory period for reply of three months. Applicant filed an February 24, 2010, made timely by obtaining a three month extension of time. However, by Advisory Action mailed March 19, 2010, the Examiner informed Applicant that the Amendment had not been entered because it failed to place the application in condition for allowance. No further reply having been received, the application became abandoned on March 3, 2010. Applicant filed a petition to revive under 37 CFR 1.137(b) on April 19, 2010. However, the petition was dismissed in a decision mailed on June 21, 2010. The petition was dismissed because applicant did not submit a proper reply to the final Office action.

With the instant renewed petition, applicant has submitted a proper reply in the form of a Notice of Appeal. The other requirements for a grantable petition were previously satisfied with the petition filed April 19, 2010.

Please be advised that the two month period for filing an appeal brief (accompanied by the fee required by 37 CFR 1.17(c)) runs from the date of this decision.

The application is being forwarded to Group Art Unit 2444 to await applicant's submission of the Appeal Brief.

Telephone inquiries concerning this decision may be directed to the undersigned at 571-272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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THE PROCTER & GAMBLE COMPANY
Global Legal Department - IP
Sycamore Building - 4th Floor
299 East Sixth Street
CINCINNATI OH 45202

MAILED
MAR 08 2011
OFFICE OF PETITIONS

In re Application of	:	
Kvietok, et al.	:	
Application No. 11/124,962	:	DECISION ON PETITION
Filed: May 9, 2005	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 9214C	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed December 23, 2010, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to the prior-filed nonprovisional application set forth in the concurrently filed amendment.

The petition is **DISMISSED.**

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

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

The petition does not comply with item (1)

The claim as set forth on the application data sheet (ADS) filed December 23, 2010 is not acceptable as the ADS is not signed in compliance with 37 CFR 1.33(b).

Furthermore, 37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional application. An example of a proper benefit claim is: "This application is a continuation of Application No. 10/--

-, filed---." A benefit claim that merely states: "This application claims the benefit of Application No. 10/---, filed---," does not comply with 37 CFR 1.72(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated. 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. The amendment fails to comply with the provisions of 37 CFR 1.78(a)(2)(i) and is therefore unacceptable.

Before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition under 37 CFR § 1.78(a)(3) an Application Data Sheet or a substitute amendment (complying with 37 CFR 1.121 and 37 CFR 1.76(b)(5)), which states the relationship of the prior-filed application to this application, are required.

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

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

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

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

Any questions concerning this matter may be directed to Attorney Advisor Alesia M. Brown at (571) 272-3205.

Chris Bottorff
Supervisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Sycamore Building - 4th Floor
299 East Sixth Street
CINCINNATI OH 45202

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MAY 09 2011

OFFICE OF PETITIONS

In re Application of	:	
Kvietok, et al.	:	
Application No. 11/124,962	:	DECISION ON PETITION
Filed: May 9, 2005	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 9214C	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed March 4, 2011, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to the prior-filed nonprovisional application set forth in the concurrently filed amendment.

The petition is **DISMISSED.**

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

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

The petition does not comply with item (1)

The claim as set forth on the application data sheet (ADS) filed herewith is not acceptable as the ADS is not signed in compliance with 37 CFR 1.33(b).

Before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition under 37 CFR § 1.78(a)(3) an Application Data Sheet or a substitute amendment (complying with 37 CFR 1.121 and 37 CFR 1.76(b)(5)), which states the relationship of the prior-filed application to this application, are required.

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

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
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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) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

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OFFICE OF PETITIONS

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Global Legal Department - IP
Sycamore Building - 4th Floor
299 East Sixth Street
CINCINNATI OH 45202

In re Application of	:
Kvietok, et al.	:
Application No. 11/124,962	: DECISION ON PETITIONS
Filed: May 9, 2005	: UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. 9214C	:

This is a decision on the renewed petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed May 19, 2011, to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The petitions are **GRANTED.**

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

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The 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) 272-3205. 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 1775 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.

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

ATTACHMENT : Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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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
11/124,962	05/09/2005	1775	2570	9214C	31	5

CONFIRMATION NO. 1047

CORRECTED FILING RECEIPT

27752
THE PROCTER & GAMBLE COMPANY
Global Legal Department - IP
Sycamore Building - 4th Floor
299 East Sixth Street
CINCINNATI, OH 45202

OC000000048971707

Date Mailed: 07/26/2011

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)

Frank Andrej Kvietok, Aurora, CO;
Elleen Marie St. Pierre, Cincinnati, OH;

Assignment For Published Patent Application

The Procter & Gamble Company, Cincinnati, OH

Power of Attorney: The patent practitioners associated with Customer Number 27752

Domestic Priority data as claimed by applicant

This application is a CON of 10/417,456 04/16/2003 ABN
which is a CIP of 09/904,019 07/12/2001 ABN
which claims benefit of 60/251,067 12/04/2000
and is a CIP of 09/730,261 12/05/2000 ABN
and is a CIP of PCT/US00/20499 07/27/2000
and is a CIP of 09/730,226 12/05/2000 PAT 6,581,915
and is a CIP of 09/730,333 12/05/2000 ABN

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

If Required, Foreign Filing License Granted: 06/09/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/124,962**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

SYSTEMS AND DEVICES FOR EMITTING VOLATILE COMPOSITIONS

Preliminary Class

239

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 WENDT FIRM, P.C.
34 DRIFTOAK CIRCLE
THE WOODLANDS TX 77381

MAILED
JUN 20 2011
OFFICE OF PETITIONS

In re Application of	:	
Charles W. True	:	
Application No. 11/124,982	:	DECISION ON PETITION
Filed: May 9, 2005	:	TO WITHDRAW
Attorney Docket No. 145.P005US	:	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 16, 2011.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Jeffrey L. Wendt, on behalf of all attorneys/agents associated with customer number 72382. All attorneys/agents associated with customer number 72382 have been withdrawn.

The correspondence address has been changed and is copied below.

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

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Environmental Packaging Technologies, Ltd.
6100 West by Northwest Blvd., Suite 100
Houston, TX 77040

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/124,982	05/09/2005	Charles W. True	145.P005US

CONFIRMATION NO. 1284

POWER OF ATTORNEY NOTICE

72382
THE WENDT FIRM, P.C.
34 DRIFTOAK CIRCLE
THE WOODLANDS, TX 77381

OC000000048158624

Date Mailed: 06/13/2011

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/16/2011.

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

/kainabinet/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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NOV 15 2010

OFFICE OF PETITIONS

In re Application of
Rainer Lorenz
Application No. 11/125,160
Filed: May 10, 2005
Attorney Docket No. LORE3002/FJD

DECISION ON PETITION

This is a decision in response the request for reconsideration under 37 CFR 1.181, filed on April 21, 2010. This is also a decision on the petition under 37 CFR 1.137(b) filed on April 21, 2010, to revive the above-identified application.

In response to the petition decision mailed January 21, 2010, petitioner submits the present petitions along with $130 for a one month extension of time and $1,620 for treatment of the petition under 37 CFR 1.137(b).

With respect to the petition under 37 CFR 1.181, petitioner states, "Can a response which is timely filed ***ever*** result in a holding of abandonment? And if so, on what authority would such a holding be made?"

Petitioner should note MPEP 711.02 which states, "37 CFR 1.135(a) specifies that an application becomes abandoned if applicant "fails to reply" to an office action within the fixed statutory period. This failure may result either from (A) failure to reply within the statutory period, or (B) insufficiency of reply, i.e., failure to file a "complete and proper reply, as the condition of the case may require" within the statutory period (37 CFR 1.135(b))."

37 CFR 1.135(b) states, "Prosecution of an application to save it from abandonment pursuant to paragraph (a) of this section must include such complete and proper reply as the condition of the application may require. The admission of, or refusal to admit, any amendment after final rejection or any amendment not responsive to the last action, or any related proceedings, will not operate to save the application from abandonment."

MPEP 1214.04 states in part, "An appeal will also be dismissed if an applicant fails to timely and fully reply to a notice of noncompliance with 37 CFR 41.37(d). See MPEP § 1205.03 and 37 CFR 41.37(d). As in examples (B)-(C) above, if no allowed claims remain in an

application, the application is abandoned as of the date the reply to the notice was due. The applicant may petition to revive the application as in other cases of abandonment, and to reinstate the appeal. If the appeal is dismissed, but allowed claims remain in the application, as in examples (A) and (D) above, the application is not abandoned; to reinstate the claims cancelled by the examiner because of the dismissal, the applicant must petition to reinstate the claims and the appeal, but a showing equivalent to a petition to revive under 37 CFR 1.137 is required. In either event, a proper reply to the notice of noncompliance must be filed before the petition will be considered on its merits."

Since petitioner failed to fully comply with the Notice mailed March 4, 2009, the above application was properly abandoned and the petition under 37 CFR 1.181 is again **dismissed**.

On the other hand, the petition under 37 CFR 1.137(b)satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an appeal brief[1]; (2) the petition fee of $1,620; and (3) an adequate statement of unintentional delay[2]. Therefore, the petition is **GRANTED**.

This application file is being referred to Technology Center Art Unit 3725 for further processing in accordance with this decision.

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

Andrea Smith
Petitions Examiner
Office of Petitions

[1] The $540 appeal brief fee was previously submitted on January 27, 2009.

[2] 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 contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the statement required by 37 CFR 1.137(b)(3) and petitioner must notify the Office if this is **not** a correct interpretation of the statement.

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MAILED
AUG 27 2010
OFFICE OF PETITIONS

Browdy and Neimark PLLC
624 Ninth Street, NW
Suite 300
Washington DC 20001-5303

In re Patent No. 7,480,233	:
Binder et al.	: DECISION UPON REMAND AND
Issue Date: January 20,2009	: RECONSIDERATION OF
Application No. 11/125,200	: PATENT TERM ADJUSTMENT
Filed: May 10, 2005	: AND NOTICE OF INTENT
Attorney Docket No. Binder=10A	: TO ISSUE CERTIFICATE OF
Title: Telephone Communication	: CORRECTION
System and Method Over Local	:
Area Network Living	

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

The patent term adjustment indicated on the above-identified patent has been recalculated as directed by the Court. The term of the above-identified patent is extended or adjusted by nine hundred twenty-five (925) days.

The application is being forwarded to the Certificates Branch for issuance of a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by nine hundred twenty-five (925) 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 : 7,480,233 B2

DATED : **January 20, 2009** **DRAFT**

INVENTOR(S) : Binder

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

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 802 days

Delete the phrase "by 802 days" and insert – by 925 days--

Day : Friday
Date: 8/27/2010

PALM INTRANET

Time: 09:57:11

PTA Calculations for Application: 11/125200			
Application Filing Date:	05/10/2005	PTO Delay (PTO):	802
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):	925
PTO Delay Adjustment:	123		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
78	08/27/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	123		
73.5	12/29/2008	PTA 36 MONTHS			
73	01/20/2009	PATENT ISSUE DATE USED IN PTA CALCULATION			
72	12/15/2008	EXPORT TO FINAL DATA CAPTURE			
71	12/12/2008	DISPATCH TO FDC			
70	12/11/2008	APPLICATION IS CONSIDERED READY FOR ISSUE			
69	12/10/2008	STATEMENT FILED INDICATING A LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS			
68	12/10/2008	ISSUE FEE PAYMENT VERIFIED			
67	12/10/2008	ISSUE FEE PAYMENT RECEIVED			
66	10/22/2008	FINISHED INITIAL DATA CAPTURE			
65	10/20/2008	TC RETURN TO PUBS			
62	09/22/2008	EXPORT TO INITIAL DATA CAPTURE			
61	09/19/2008	MAIL NOTICE OF ALLOWANCE	802		-1
60	09/18/2008	ISSUE REVISION COMPLETED			
59	09/17/2008	ALLOWED CASE RETURNED TO THE EXAMINER FOR CLERICAL PROCESSING			
58	09/17/2008	DOCUMENT VERIFICATION			
57	09/17/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
56	09/15/2008	NOTICE OF ALLOWABILITY			
55	05/10/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
54	11/21/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
53	12/14/2006	INFORMATION DISCLOSURE STATEMENT			

		CONSIDERED			
52	01/03/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
51	05/24/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
50	06/13/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
49	06/13/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
48	09/12/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
41	09/12/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
40	09/10/2008	CASE DOCKETED TO EXAMINER IN GAU			
39	05/23/2008	TRANSFER INQUIRY TO GAU			
38	05/09/2008	TRANSFER INQUIRY TO GAU			
37	03/14/2008	CASE DOCKETED TO EXAMINER IN GAU			
36	07/03/2007	PRELIMINARY AMENDMENT			
35	06/13/2007	ELECTRONIC INFORMATION DISCLOSURE STATEMENT			
34	06/13/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
33	06/13/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
32	03/13/2007	ELECTRONIC INFORMATION DISCLOSURE STATEMENT			
31	05/24/2007	REFERENCE CAPTURE ON IDS			
30	05/24/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
29	05/24/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
28	01/18/2007	CASE DOCKETED TO EXAMINER IN GAU			
27	01/03/2007	REFERENCE CAPTURE ON IDS			
26.7	01/03/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
26	01/03/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
25	12/14/2006	REFERENCE CAPTURE ON IDS			
24.7	12/14/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
24	12/14/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			

23.7	11/21/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
23	11/21/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
20	03/22/2006	CASE DOCKETED TO EXAMINER IN GAU			
19	01/27/2006	CASE DOCKETED TO EXAMINER IN GAU			
18	12/12/2005	PRELIMINARY AMENDMENT			
17	07/11/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
16	07/11/2005	CASE DOCKETED TO EXAMINER IN GAU			
15	05/10/2005	REFERENCE CAPTURE ON IDS			
14.7	05/10/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
14	05/10/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
13	06/22/2005	APPLICATION RETURN FROM OIPE			
12	06/22/2005	APPLICATION IS NOW COMPLETE			
11	06/13/2005	ADDITIONAL APPLICATION FILING FEES			
10	06/13/2005	APPLICANT HAS SUBMITTED A NEW SPECIFICATION TO CORRECT CORRECTED PAPERS PROBLEMS			
9	06/07/2005	CORRECTED PAPER			
7	06/06/2005	APPLICATION RETURN TO OIPE			
6	06/06/2005	APPLICATION DISPATCHED FROM OIPE			
5	06/06/2005	APPLICATION IS NOW COMPLETE			
4	05/23/2005	CLEARED BY OIPE CSR			
3	05/23/2005	CASE CLASSIFIED BY OIPE			
2	05/19/2005	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	05/10/2005	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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Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/125,409	05/10/2005	Erick S. Dyke	723-1668	1345

7590 01/28/2011
NIXON & VANDERHYE, P.C.
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

EXAMINER
PIERCE, DAMON JOSEPH

ART UNIT	PAPER NUMBER
3714	

MAIL DATE	DELIVERY MODE
01/28/2011	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
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January 27, 2011

NIXON & VANDERHYE, P.C.
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203

In re Application of	:	
Erick S. Dyke, et al	:	**DECISION ON PETITION**
Application No. 11125409	:	
Filed: 05/10/2005	:	***ACCEPTANCE OF COLOR***
Attorney Docket No. **723-1668**	:	***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 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.

/Laura Feldman/
Quality Control Specialist
Office of Data Management
Publications Branch

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 11-22-10 Paper No.: _____

TO SPE OF : ART UNIT 2611

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/125475 Patent No.: 7,796,749

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

FOR IFW FILES: check claims

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

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

FOR PAPER FILES:

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

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

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

SPE [signature] ART UNIT 2611

UNITED STATES PATENT AND TRADEMARK OFFICE

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PENNINGTON, MOORE, WILKINSON, BELL & DUNBAR, P.A.
POST OFFICE BOX 10095
TALLAHASSEE, FL 32302-2095

MAILED
MAR 11 2011
OFFICE OF PETITIONS

In re Patent No. 6,997,766	:	
Issue Date: February 14, 2006	:	
Application No. 11/125,667	:	ON PETITION
Filed: May 10, 2005	:	
Attorney Docket No. None	:	

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

The petition is **DISMISSED**.

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

The petition lacks items (2) and (3), above. The total fees required to reinstate this patent on January 24, 2011, is $490 for the 3 ½ year maintenance fee and $1,640 for the petition surcharge. The credit card authorization submitted with the petition was declined on January 24, 2011. Accordingly, this patent cannot be reinstated until the appropriate fees have been submitted.

Further, the power of attorney also filed on January 24, 2011, cannot be accepted since the Statement Under 3.73(b) filed herein is not valid, as the assignment submitted for recordation was not recorded with the Office due to insufficient fees.

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.

If reconsideration of this decision is desired, a petition for reconsideration under 37 CFR 1.378(e) must be filed within TWO (2) MONTHS from the mail date of this decision. No extension of this two-month time limit can be granted under 37 CFR 1.136(a) or (b). This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

Any petition for reconsideration of this decision must be accompanied by the petition fee of $400 as set forth in 37 CFR 1.17(f). The petition for reconsideration must include the lacking item(s) noted above, since, after a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Director.

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

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

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

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

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

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
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POST OFFICE BOX 10095
TALLAHASSEE, FL 32302-2095

MAILED

JUN 01 2011

OFFICE OF PETITIONS

In re Patent No. 6,997,766	:	
Issue Date: February 14, 2006	:	
Application No. 11/125,667	:	ON PETITION
Filed: May 10, 2005	:	
Attorney Docket No. None	:	

This is a decision on the renewed petition under 37 CFR 1.378(c), filed March 31, 2011, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on February 15, 2010, for failure to pay the 3 ½ year maintenance fee. On January 24, 2011, a petition under 37 CFR 1.378(c) was filed, however; the petition was dismissed on March 11, 2011, because of insufficient funds. The renewed petition filed on March 31, 2011, satisfies the fee requirements of 37 CFR 1.378(c). Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

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

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that the delay in paying the maintenance fee under 37 CFR 1.378(c) was intentional, petitioner must notify the Office.

The Power of Attorney submitted with the renewed petition herein on March 31, 2011, still cannot be accepted from the assignee as the assignment has not been recorded with the Office. Petitioner should note that in accordance with 37 CFR 1.21(h) an assignment recordation fee of $40 must be submitted in order to record an assignment, agreement or other papers. However, in

accordance with 37 CFR 1.34, the signature of Lawrence Harbin 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.

A courtesy copy of this decision is being mailed to the address given on the petition.

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

A. Kelley-Collier

Alicia Kelley-Collier
Petitions Examiner
Office of Petitions

cc: LAWRENCE HARBIN
HARBIN & HEIN LLP
500 9TH STREET, SE
WASHINGTON, DC 20003

UNITED STATES PATENT AND TRADEMARK OFFICE

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HOFFMANN & BARON, LLP
6900 JERICHO TURNPIKE
SYOSSET NY 11791

MAILED
JUN 16 2011
OFFICE OF PETITIONS

In re Application of	:	
CLERC, Claude et al.	:	
Application No. 11/125,722	:	DECISION ON PETITION
Filed: May 10, 2005	:	TO WITHDRAW
Attorney Docket No. **792-19 RCE**	:	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 12, 2011.

The request is **NOT APPROVED**.

The Office will no longer accept address changes to a new practitioner or law firm filed with a Request, absent the filing of a power of attorney to the new representative. The Office will either change the correspondence address of record to the most current address information provided for the assignee of the entire interest who properly became of record under 37 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

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

MAILED

SEP 29 2010

OFFICE OF PETITIONS

In re Patent No. 7,763,292 :
Issued: July 27, 2010 : LETTER REGARDING
Application No. 11/125,782 : PATENT TERM ADJUSTMENT
Filed: May 10, 2005 :
Attorney Docket No. **120443-2001.1** :

This is a decision on the PATENT TERM ADJUSTMENT PETITION AND STATEMENT UNDER 37 C.F.R. § 1.705(b) filed on July 19, 2010, requesting that the patent term adjustment indicated on the above-identified patent be corrected from 415 days to 543 days. Since the request is after issuance, the request is being treated under 37 CFR 1.705(d). 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 being considered in light of the Court of Appeals for the Federal Circuit's decision in *Wyeth v. Kappos*, 2009-1120 (Fed. Cir. 1-7-2010).

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

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

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

Patentee has miscalculated the total patent term adjustment. In this instance there are two periods consumed by appellate review which begin on April 3, 2009 and end on August 7, 2009 with the mailing of the non-Final Office Action, and begins on November 9, 2009 and ends on February 3, 2010 with the mailing of the Notice of Allowance and is 214 days. Further, the Office has determined that the period of overlap is 4 days. Considering the exclusion and the overlap, the "B delay" is 596 days. Thus, the patent term adjustment is 415 days.

The Office acknowledges the submission of the required fee of $200.00 set forth in 37 CFR 1.18(e) .

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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LSI CORPORATION
1621 BARBER LANE
MS: D-105
MILPITAS CA 95035

MAILED
NOV 22 2010
OFFICE OF PETITIONS

In re Application of
Kirk ROLOFSON, et al
Application No. 11/125,863
Filed: May 10, 2005
Attorney Docket No. 05-0115

DECISION ON PETITION

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

The petition is **GRANTED**.

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

This application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of January 7, 2010. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(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 8, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal; (2) the petition fee of $1620; and (3) a proper statement of unintentional delay.

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

required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

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

This application is being referred to Technology Center AU 2624 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

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

Cc: WAYNE L. ELLENBOGEN
OTTERSTEDT, ELLENBOGEN & KRAMMER, LLP
P.O. BOX 98,
EAST NORTHPORT, NY 11731

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: Blevin 4-17-15 (JH)-US-NP	Patent Number: 7,661,094
Filing Date (or 371(b) or (f) Date): May 10, 2005	Issue Date: February 9, 2010
First Named Inventor: John Harris Blevin	
Title: Real-time software diagnostic tracing	

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

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

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

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

Signature /Gregory J. Murgia/	Date August 9, 2010
Name (Print/Typed) Gregory J. Murgia	Registration Number 41,209

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

☑ *Total of 1 forms are submitted.

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

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

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

Mail Date: 08/16/2010

Applicant	: John Harris Blevin	: DECISION ON REQUEST FOR
Patent Number	: 7661094	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/125,952	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/10/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1279** 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

AMGEN INC.
MAIL STOP 28-2-C
ONE AMGEN CENTER DRIVE
THOUSAND OAKS CA 91320-1799

In re Application :
Geuns-Meyer, et al. :
Application No. 11/126,000 : PATENT TERM ADJUSTMENT
Filing or 371(c) Date: May 9, 2005 :
Dkt. No.: A-909 :

This is in response to the application for patent term adjustment under 37 CFR 1.705(b), filed November 22, 2010.

Applicant submits that the correct patent term adjustment to be indicated on the patent is 768 days, not 217 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction on the basis that the Office will take in excess of three years to issue this patent.

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

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See, § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

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

Applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time

of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

Receipt is hereby acknowledged of the required patent term adjustment application fee under 37 CFR 1.705(b) of $200.00. See, 37 CFR 1.18(e).

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

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

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

/ALESIA M. BROWN/

Alesia M. Brown
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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IBM CORPORATION
INTELLECTUAL PROPERTY LAW
11501 BURNET ROAD
AUSTIN, TX 78758

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OFFICE OF PETITIONS

In re Application of	:	
Saitou et al.	:	
Application No. 11/126,117	:	DECISION ON PETITION
Filed: May 10, 2005	:	
Attorney Docket No. JP920040028US1..IBM-0171	:	

This is a decision on the petition, filed November 1, 2010, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the Notice of Allowance and Fee(s) Due (Notice) mailed May 27, 2010, which set a three (3) month statutory period for reply. A Notice of Abandonment was mailed on October 21, 2010.

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 the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable.

(2) A statement from the practitioner that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received.

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

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

The petition satisfies the above-stated requirements. The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

Petitioner should note that the payment of the issue fee of $1,510 and publication fee of $300 will be charged to petitioner's deposit account as authorized.

Further, the change of correspondence address submitted on November 1, 2010, is hereby accepted and made of record. 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.

This application is being referred to the Office of Data Management for appropriate action in the normal course of business on the reply submitted November 1, 2010.

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: SCOTT CHARLES RICHARDSON
THE BREVETTO LAW GROUP, PLLC
P.O. BOX 808
QUINCY, IL 62305

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

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SEP 2 1 2010

OFFICE OF PETITIONS

In re Application :
Bennett, et al. :
Application No. 11/126,464 : PATENT TERM ADJUSTMENT
Filing or 371(c) Date: May 11, 2005 :
Dkt. No.: 15774US02 :

This is in response to the application for patent term adjustment under 37 CFR 1.705(b), filed August 31, 2010.

Applicant submits that the correct patent term adjustment to be indicated on the patent is 890 days, not 344 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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MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

In re Patent No. 7,826,457
Issued: November 2, 2010
Application No. 11/126,464
Filing or 371(c) Date: May 11, 2005
Dkt. No.: 15774US02

: DECISION ON APPLICATION FOR
: PATENT TERM ADJUSTMENT

This is a decision on the application for patent term adjustment under 37 CFR 1.705(d) filed on January 3, 2011 requesting a decrease in patent term adjustment from 713 days to 860 days.

The petition for reconsideration of the patent term adjustment is **DISMISSED**.

The above-identified application matured into U.S. Patent No. 7,826,457 on November 2, 2010. The patent issued with a patent term adjustment of 713 days. The instant application for patent term adjustment was timely filed January 3, 2011.

Patentees dispute the 474 days accorded pursuant to 37 CFR 1.703(b) and assert that the correction period of adjustment in this regard is 622 days.

Patentees further dispute the adjustment of 74 days accorded pursuant to 37 CFR 1.703(a)(3). Patentees assert that the correct adjustment in this regard is 76 days.

Patentees further dispute the reduction for applicant delay of 31 days pursuant to 37 CFR 1.704(c)(10) and assert that the correct reduction is 30 days.

Patentees' arguments have been considered, but not found persuasive.

With respect to the period of adjustment pursuant to 37 CFR 1.703(b), 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. The USPTO indicated in September of 2000 in the final rule to implement the patent term adjustment provisions of the AIPA that once a request for continued examination under 35 U.S.C. 132(b) and 37 CFR 1.114 is filed in an application, any further processing or examination of the application, including granting of a patent, is by virtue of the continued examination given to the application under 35 U.S.C. 132(b) and CFR 1.114. See Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term, 65 Fed. Reg.

56365, 56376 (Sept. 18, 2000) (response to comment 8). Thus, the excluded period begins with the filing of the request for continued examination and ends with the issuance of the patent. Herein, the period of time from May 26, 2010, the date that the request for continuing examination was filed to November 2, 2010, the date the patent issued, is excluded from the period of adjustment accorded pursuant to 37 CFR 1.703(b). See, 37 CFR 1.703(b)(1).

With respect to the period of time consumed by appeal pursuant to 37 CFR 1.703(e), the period consumed by appellate review, whether successful or not, is excluded from the calculation of adjustment under 37 CFR 1.703(b). See, 35 U.S.C. 154(b)(1)(B)(ii). An appeal to the Board of Patent Appeals and Interferences commences with the filing of a notice of appeal. See, 35 U.S.C. 134(a). Generally, an appeal to the Board of Patent Appeals and Interferences ends with either 1) a Board decision, 2) the examiner reopening prosecution and issuing another Office action, or 3) the applicant filing a request to withdraw the appeal and reopen prosecution (e.g. the filing of a request for continued examination). In this instance the first period consumed by appellate review is 105 days, beginning on January 30, 2008, the date of filing of the notice of appeal and ending on May 13, 2008, the subsequent date of the mailing of the non-final Office action. Further, the second period consumed by appellate review is 167 days, beginning on April 17, 2009, the date of filing of the notice of appeal, and ending on September 30, 2009, the date of mailing of the non-final Office action.

With respect to the adjustment of 74 days pursuant to 37 CFR 1.703(b)(3), no error in the calculation has been found, despite patentees' argument to the contrary. The adjustment commenced July 19, 2009, the day after the date that is four months after the date that a reply was filed, and ended September 30, 2009, the date that the non-final Office action was mailed.

With respect to the reduction of 31 days pursuant to 37 CR 1.704(c)(10), no error in the calculation has been found, despite patentees' argument to the contrary. The reduction commenced August 31, 2010, the date that the Rule 312 amendment was filed, and ended September 30,, 2010, the date that the response thereto was mailed.

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

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

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

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

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

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

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CHRISTIE, PARKER & HALE, LLP
PO BOX 7068
PASADENA CA 91109-7068

MAILED
JUN 30 2011
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In re Patent No. 7,508,483	:	
Application No. 11/126,482	:	
Filed: May 11, 2005	:	ON PETITION
Issued: March 24, 2009	:	
Attorney Docket No. 54775/P849	:	

This is a decision on the petition filed May 4, 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**.

This matter is being referred to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3206. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/126,652	05/11/2005	I-Hwa Lee	AD7120 US NA	4437

23906 7590 06/16/2011
E I DU PONT DE NEMOURS AND COMPANY
LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1122B
4417 LANCASTER PIKE
WILMINGTON, DE 19805

EXAMINER
WELTER, RACHAEL E

ART UNIT	PAPER NUMBER
1611	

NOTIFICATION DATE	DELIVERY MODE
06/16/2011	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):

PTO-Legal.PRC@usa.dupont.com

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JUN 1 6 2011

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

In re Application of	:	
Lee et al.	:	
Serial No.: 11/126,652	:	Decision on Petition
Filed: May 11, 2005	:	
Attorney Docket No.: **AD7120 US NA**	:	

This letter is in response to the petition filed under 37 C.F.R. § 1.181 filed on April 6, 2011 to enter the Rule 132 declaration, the Rule 28 declaration, or both.

BACKGROUND

Relevant parts of the prosecution history are summarized below.

The examiner mailed to applicants a final Office action on February 3, 2011. Claims 1-22 were pending and claims 16-22 remained withdrawn from consideration. Claims 1-5 and 10-13 were rejected under 35 U.S.C. 103(a) as being unpatentable over Beckwith et al in view of Cardinal as evidenced by Hytrel. Claims 6-9 and 14-15 were rejected under 35 U.S.C. 103(a) as being unpatentable over Beckwith et al in view of Cardinal as evidenced by Hytrel as applied to claims 1-5 and 10-13 above and in further view of DeVegt et al. Claims 1-5 and 10-13 were rejected under 35 U.S.C. 103(a) as being unpatentable over Lee et al in view of Beckwith et al and Cardinal. Claims 6-9 rejected under 35 U.S.C. 103(a) as being unpatentable over Lee et al in view of Beckwith et al and Cardinal as applied to claims 1-5 and 10-15 and in further view of De Vegt et al. Claims 1-5 and 10-13 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-12 of U.S. Patent No. 7,615,270 in view of Beckwith et al and Cardinal . Claims 6-9 and 14-15 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-12 of U.S. Patent No. 7,615,270 in view of Beckwith et al, Cardinal and DeVegt et al.

On March 21, 2011, applicants submitted an after final a Rule 132 declaration and a Rule 28 declaration.

On April 5, 2011, the examiner mailed to applicants an advisory action indicating that the Rule 132 declaration and Rule 28 declaration would not be entered because applicants failed to provide a showing of good and sufficient reasons why the evidence is necessary and was not earlier presented.

On April 6, 2011, applicants submitted a petition requesting entry of the Rule 132 declaration, the Rule 28 declaration, or both.

On May 5, applicants submitted a Notice of Appeal.

DISCUSSION

The petition and file history have been carefully considered.

Applicants argue "Had the non-final Office action stated the rejection was under 102(e)/103(a), applicants could have submitted the Rule 78 declaration or Rule 131 declaration or another Rule 132 declaration. Applicants therefore request that at least the Rule 78 declaration be entered."

Applicants' arguments have again been accorded careful consideration but they are not persuasive that the examiner erred. A final rejection closes prosecution. Thus, anything submitted after final does not require entry by the examiner. Specifically, the examiner relied on the proper Form Paragraphs to point out what date was being relied upon in the non-final and final Office actions (See page 5 of the non-final Office action of August 20, 2010 and page 3 of the final Office action of February 3, 2011 which sets forth the following language:

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).) Thus, applicants were made aware of the potential 103 c exclusion.

DECISION

The petition is **DENIED.**

Any new or renewed petition must be filed within TWO MONTHS of the mail date of this decision.

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

Remy Yucel
Director, Technology Center 1600

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: Bemmel 10 (Jv)-US-NP	Patent Number: 7,668,140
Filing Date (or 371(b) or (f) Date): May 11, 2005	Issue Date: February 23, 2010
First Named Inventor: Jeroen Van Bemmel	
Title: Roaming between wireless access point	

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

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

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

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

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

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

☑ *Total of 1 forms are submitted.

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

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

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WILLIAMS, MORGAN & AMERSON
10333 RICHMOND, SUITE 1100
HOUSTON, TX 77042

Mail Date: 08/17/2010

Applicant	: Jeroen Van Bemmel	: DECISION ON REQUEST FOR
Patent Number	: 7668140	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/126,830	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/11/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **367** 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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SUTHERLAND ASBILL & BRENNAN LLP
999 PEACHTREE STREET, N.E.
ATLANTA GA 30309

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SEP 2 1 2010

OFFICE OF PETITIONS

In re Application
Yu Shi et al.
Application No. 11/127,037
Filed: May 11, 2005
Attorney Docket No. 25040-1319

: DECISION ON APPLICATION
: FOR PATENT TERM ADJUSTMENT

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d)" filed December 17, 2009, which is 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 corrected from five hundred sixty-six (566) days to three hundred twenty-two (322) days.

The request for correction of the initial determination of patent term adjustment (PTA) is **GRANTED to the extent indicated.** The PTA at the time of the mailing of the notice of allowance is 193 days.

The Office has updated the PALM screen to reflect that the correct Patent Term Adjustment determination at the time of the mailing of the Notice of Allowance is one hundred ninety-three (193) days. A copy of the updated PALM screen, showing the corrected determination, is enclosed.

On September 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 566 days. Applicants direct the office to the Six Month Applicant Initiated Suspension of Prosecution filed on June 2, 2008 and argue that the USPTO delay should be calculated from Expiration of the Suspension of Prosecution on December 2, 2008, to the mailing of the Final Rejection on April 10, 2009 (129 days) and, the total reductions in patent term adjustment for Applicant delay should be 244 days, calculated as the sum of delays of 61 days for Applicant's delay in responding to the Office Action mailed January 2, 2008, and 183 days for the Applicant Initiated Suspension of Prosecution of Six Months.

A review of the record reveals that the initial determination of patent term adjustment of 566 days is incorrect.

Applicant's argument with respect to the Applicant Delay is persuasive. Pursuant to 37 CFR 1.705(c)(1), 183 days should have been entered for the filing on June 2, 2008 of

the letter suspending prosecution at applicant's request. However, the filing of the Applicant Initiated Suspension of Prosecution of Six Months tolled the clock for the Office to respond to the paper filed June 2, 2008. Therefore the Office delay in the amount of 190 days should not have been entered and has been removed.

37 CFR 1.704(c)(1) provides that:

> c) Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:
>
> (1) Suspension of action under § 1.103 at the applicant's request, 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 a request for suspension of action under § 1.103 was filed and ending on the date of the termination of the suspension;

In view thereof, the determination of Patent Term Adjustment at the time of the mailing of the notice of allowance is ONE HUNDRED NINETY-THREE days (437 days of Office delay reduced by 244 days of applicant delay).

The Office acknowledges the authorization to charge the $200.00 fee set forth in 37 CFR 1.18(e) to deposit account no. 19-5029. No additional fees are required.

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

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

Anthony Knight
Director
Office of Petitions

Enclosure: Copy of Revised PALM Screen

Patent Term Adjustments

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

Application Number*: 11127037 Search Explanation of PTA Calculation Explanation of PTE Calculation

PTA Calculations for Application: 11127037

Application Filing Date	05/11/2005	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	627
A Delays	627	PTO Manual Adjustment	-373
B Delays	0	Applicant Delay (APPL)	61
C Delays	0	Total PTA (days)	193

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
89	09/19/2010		P028	Adjustment of PTA Calculation by PTO		373	0
78	09/18/2009		MN/=.	Mail Notice of Allowance			0
77	09/16/2009		IREV	Issue Revision Completed			0
76	09/16/2009		DVER	Document Verification			0
75	09/16/2009		N/=.	Notice of Allowance Data Verification Completed			0
74	09/16/2009		EX.A	Examiner's Amendment Communication			0
73	09/14/2009		CNTA	Notice of Allowability			0
72	07/15/2009		FWDX	Date Forwarded to Examiner			0
70	07/15/2009		FWDX	Date Forwarded to Examiner			0
68	07/15/2009		ABN9	Disposal for a RCE / CPA / R129			0
71	07/08/2009		AMPR	RCE- AF Processed			0
69	07/08/2009		RCEX	Request for Continued Examination (RCE)			0
67	07/08/2009		BRCE	Workflow - Request for RCE - Begin			0
66	06/18/2009		MCTAV	Mail Advisory Action (PTOL - 303)			0
65	06/17/2009		CTAV	Advisory Action (PTOL-303)			0
64	06/01/2009		FWDX	Date Forwarded to Examiner			0
63	05/29/2009		A.NE	Amendment after Final Rejection			0
62	05/29/2009		AF/D	Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received			0
61	05/29/2009		C602	Oath or Declaration Filed (Including Supplemental)			0
60	05/29/2009		RU47	Rule 47 / 48 Correction of Inventorship Papers Filed			0
59	04/24/2009		MEXIN	Mail Examiner Interview Summary (PTOL - 413)			0
58	04/22/2009		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
56	04/10/2009	10/02/2008	MCTFR	Mail Final Rejection (PTOL - 326)	190		43
55	04/09/2009		CTFR	Final Rejection			0
52	02/08/2009		FWDX	Date Forwarded to Examiner			0
51	02/08/2009		EOSP	to Close the A/R Record and Reset the Status for Expired Suspensions.			0
53	11/26/2008		M856	Letter Requesting Suspension of Prosecution			0
50	11/19/2008		DOCK	Case Docketed to Examiner in GAU			0
54	10/10/2008		IDSC	Information Disclosure Statement considered			0
49	10/10/2008		EIDS.	Electronic Information Disclosure Statement			0
48	10/10/2008		WIDS	Information Disclosure Statement (IDS) Filed			0
47	07/11/2008		MAISP.	Mail Letter Suspending Prosecution at Applicant's Request			0
46	07/11/2008		AISP	Letter of Suspension - Applicant Initiated			0
44	07/11/2008		FWDX	Date Forwarded to Examiner			0
40	06/24/2008		DOCK	Case Docketed to Examiner in GAU			0
45	06/02/2008		M856	Letter Requesting Suspension of Prosecution			0
43	06/02/2008	04/02/2008	A...	Response after Non-Final Action		61	37
42	06/02/2008		XT/G	Request for Extension of Time - Granted			0
39	03/31/2008		MEXIN	Mail Examiner Interview Summary (PTOL - 413)			0
38	03/27/2008		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
37	01/02/2008		MCTNF	Mail Non-Final Rejection			0
36	12/26/2007		CTNF	Non-Final Rejection			0
27	10/22/2007		FWDX	Date Forwarded to Examiner			0
26	10/18/2007		ELC.	Response to Election / Restriction Filed			0
25	10/04/2007		DOCK	Case Docketed to Examiner in GAU			0
24	09/21/2007	07/11/2006	MCTRS	Mail Restriction Requirement	437		-1
23	09/17/2007		CTRS	Requirement for Restriction / Election			0
33	06/28/2007		IDSC	Information Disclosure Statement considered			0
32	06/28/2007		IDSC	Information Disclosure Statement considered			0
31	06/28/2007		IDSC	Information Disclosure Statement considered			0
30	06/28/2007		IDSC	Information Disclosure Statement considered			0
29	06/28/2007		IDSC	Information Disclosure Statement considered			0
28	06/28/2007		IDSC	Information Disclosure Statement considered			0
22	06/28/2007		EIDS.	Electronic Information Disclosure Statement			0
21	06/28/2007		EIDS.	Electronic Information Disclosure Statement			0
20	06/28/2007		WIDS	Information Disclosure Statement (IDS) Filed			0
19	06/28/2007		WIDS	Information Disclosure Statement (IDS) Filed			0
18	06/28/2007		WIDS	Information Disclosure Statement (IDS) Filed			0
17	06/28/2007		WIDS	Information Disclosure Statement (IDS) Filed			0
16	06/28/2007		WIDS	Information Disclosure Statement (IDS) Filed			0
15	06/28/2007		WIDS	Information Disclosure Statement (IDS) Filed			0
14	08/17/2005		TSSCOMP	IFW TSS Processing by Tech Center Complete			0
13	08/17/2005		DOCK	Case Docketed to Examiner in GAU			0
12	08/15/2005		WROIPE	Application Return from OIPE			0
11	08/15/2005		COMP	Application Is Now Complete			0
10	08/15/2005		ROIPE	Application Return TO OIPE			0
9	08/15/2005		OIPE	Application Dispatched from OIPE			0
8	08/15/2005		COMP	Application Is Now Complete			0
7	08/04/2005		FLFEE	Payment of additional filing fee/Preexam			0
5	08/04/2005		OATHDECL	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic			0
4	06/10/2005		INCD	Notice Mailed--Application Incomplete--Filing Date Assigned			0
3	06/04/2005		L194	Cleared by OIPE CSR			0
2	05/31/2005		SCAN	IFW Scan & PACR Auto Security Review			0
1	05/11/2005		IEXX	Initial Exam Team nn			0

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JENNER & BLOCK, LLP
353 N. Clark Street
CHICAGO IL 60654-3456

MAILED

JAN 03 2011

OFFICE OF PETITIONS

In re Application of	:	
John Patrick McCarthy, et al.	:	
Application No. 11/127,169	:	DECISION ON PETITION
Filed: May 12, 2005	:	
Attorney Docket No. 707-1	:	

This is a decision on the petition filed November 16, 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. 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 fee. The petitioner submitted $800 in which $10 is still due to complete the petition fee. 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) 272-2991.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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JENNER & BLOCK, LLP
353 N. Clark Street
CHICAGO IL 60654-3456

MAILED
AUG 02 2011
OFFICE OF PETITIONS

In re Application of	:	
John Patrick McCarthy, et al.	:	
Application No. 11/127,169	:	DECISION ON PETITION
Filed: May 12, 2005	:	
Attorney Docket No. 707-1	:	

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 **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, December 30, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on March 31, 2009. The Notice of Abandonment was mailed July 21, 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 (filed on November 16, 2010), (2) the petition fee of $810, and (3) a proper statement of unintentional delay (filed on November 16, 2010).

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

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

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

This application is being referred to Technology Center AU 3688 for appropriate action by the Examiner in the normal course of business on the reply received.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

cc: **RAYMOND N. NIMROD**
257 MILLER ROAD
GERMAN TOWN, NY 12526

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233 SOUTH WACKER DRIVE
6300 WILLIS TOWER
CHICAGO IL 60606-6357

MAILED

AUG 13 2010

OFFICE OF PETITIONS

In re Application of	:	
Larry R. Brown et al	:	
Application No. 11/127,360	:	DECISION GRANTING PETITION
Filed: May 12, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 31203/42554	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed August 12, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on June 24, 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 1633 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

/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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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/127,544	05/11/2005	Stephen R. Hanson	3800001.00003 / 5202C	6395

77202 7590 12/21/2010
K&L Gates LLP
3580 Carmel Mountain Road
Suite 200
San Diego, CA 92130

EXAMINER
FUBARA, BLESSING M

ART UNIT	PAPER NUMBER
1613	

MAIL DATE	DELIVERY MODE
12/21/2010	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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K&L Gates LLP
3580 Carmel Mountain Road
Suite 200
San Diego CA 92130

In re Application of:
Stephen Hanson
Serial No.: 11/127,544
Filed: May 11, 2005
Attorney Docket No: **3800001.00003 / 5202C**

: PETITION DECISION

This is in response to the petition filed on November 30, 2010 under 3 7 CFR 1.181 to correct the misclassification of submitted Information Disclosure Statements. Specifically, applicants request correction of the classification in PAIR of the Information Disclosure Statements submitted on December 20, 2007; January 8, 2009; June 23, 2009; and September 28, 2010 in connection with the above-referenced application and consideration by the Examiner of the documents and information contained therein.

Applicant argues the "Information Disclosure Statements were submitted in connection with the above-captioned application on December 20, 2007; January 8, 2009; June 23, 2009; and September 28, 2010. Each Information Disclosure Statement was prepared in accordance with 37 C.F.R 1.97 and 1.98. As required under 37 C.F.R 1.98, each Information Disclosure Statement contained 1) a list of all patents, publications, applications, or other information submitted for consideration by the Office, including a column that provides a space next to each document to be considered, for the examiner's initials and a heading that clearly indicates that the list is an Information Disclosure Statement; and 2) legible copies of all items listed. The items either were in English or a translation was provided. Copies of the misclassified Information Disclosure Statements filed on December 20, 2007; January 8, 2009; June 23, 2009; and September 28, 2010 are attached.

The submitted Information Disclosure Statements included a tabular Form PTO-1449, which was classified as an "IDS," and a written disclosure of information. In each instance, the written disclosure of information was misclassified in PAIR as a "Transmittal Letter" (December 20, 2007; "Transmittal Letter" of 2 pages; January 8, 2009, "Transmittal Letter" of 2 pages; June 23, 2009, "Transmittal Letter" of 2 pages; and September 28, 2010, "Transmittal Letter" of 4 pages). Consequently the information contained therein was not considered or reviewed by the Examiner."

Applicants' argument has been accorded careful consideration and is persuasive. PAIR will be corrected to reflect the misclassification of the submitted Information Disclosure Statements of December 20, 2007; January 8, 2009; June 23, 2009; and September 28, 2010.

DECISION

The petition is **GRANTED.**

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

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

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WESTON FL 33326

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OCT 13 2011
OFFICE OF PETITIONS

In re Application of	:	
Thomas Aisenbrey	:	DECISION ON PETITION
Application No. 11/127,573	:	TO WITHDRAW
Filed: May 12, 2005	:	FROM RECORD
Attorney Docket No. 2200-0040-01	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 29, 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. Customer Number 07066 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.

Currently, there is an outstanding Office action mailed September 19, 2011 that requires a reply.

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

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

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REED SMITH LLP
2500 ONE LIBERTY PLACE
1650 MARKET STREET
PHILADELPHIA, PA 19103

MAILED
OCT 25 2011
OFFICE OF PETITIONS

In re Application of
Thomas Aisenbrey
Application No. 11/127,578
Filed: May 12, 2005
Attorney Docket No. 2200-0038-01

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 29, 2011.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Reed Smith, LLP has been revoked by the assignee of the patent application on October 11, 2011. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

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

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)
7267774	2007-09-11	11127670	2005-05-12	

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

● The assignee of record of the entire interest

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

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	/Thomas O. Peyton/	Date (YYYY-MM-DD)	2011-11-01
Name	Thomas O. Peyton		
Enter Reel and Frame Number		Remove	
Reel Number	019663	Frame Number	0585
Click ADD for additional Reel Number and Frame Number		Add	

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 7267774
Issue Date: September 11,2007
Application No. 11127670
Filed: May 12,2005
Attorney Docket No. AMBIO 01

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed November 4,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of November 4,2011 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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BASCH & NICKERSON LLP
1777 PENFIELD ROAD
PENFIELD NY 14526

MAILED
OCT 04 2010
OFFICE OF PETITIONS

In re Application of :
Vernon :
Application No. 11/127,673 : ON PETITION
Filed: May 12, 2005 :
Attorney Docket No. A2192-US-NP :
For: METHOD FOR CREATING UNIQUE IDENTIFICATION FOR COPIES OF EXECUTABLE CODE AND MANAGEMENT THEREOF

This is a decision on the petition under 37 CFR §1.183 requesting waiver of 37 CFR § 1.97. The petition will be treated as a petition under 37 CFR §1.183 requesting waiver of 37 CFR § 1.98(a)(1), which requires an applicant to provide a list of all patents, publications, applications, or other information submitted for consideration by the Office in an Information Disclosure Statement (IDS).

The petition under 37 CFR §1.183 requesting waiver of 37 CFR § 1.98(a)(1) is **DISMISSED AS MOOT**.

Applicant concedes that due to a typographical error, applicant provided an incorrect Document Number in the IDS filed on March 23, 2010. Applicant requests waiver of Rule 1.98(a)(1), so that the examiner of record may consider the proper Published US Patent Application Number, which allegedly can be readily ascertained through other identifying information provided in the March 23, 2010 IDS.

The examiner has indicated that he *has* considered the proper reference - Published US Patent Application Number 20060027659 - and his consideration will be indicated in the yet to be mailed response to the amendment after final action, filed on July 27, 2010. As such, the instant petition is dismissed as moot. The $400.00 petition fee will be refunded to petitioner's credit card.

This application is being referred to Technology Center G.A.U. 2193.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BASCH & NICKERSON LLP
1777 PENFIELD ROAD
PENFIELD NY 14526

In re Application of :
Vernon :
Application No. 11/127,674 : ON PETITION
Filed: May 12, 2005 :
Attorney Docket No. 20011499-US-NP :
For: METHOD FOR CREATING UNIQUE IDENTIFICATION FOR COPIES OF EXECUTABLE CODE AND MANAGEMENT THEREOF

MAILED
OCT 04 2010
OFFICE OF PETITIONS

This is a decision on the petition under 37 CFR §1.183 requesting waiver of 37 CFR § 1.97. The petition will be treated as a petition under 37 CFR §1.183 requesting waiver of 37 CFR § 1.98(a)(1), which requires an applicant to provide a list of all patents, publications, applications, or other information submitted for consideration by the Office in an Information Disclosure Statement (IDS).

The petition under 37 CFR §1.183 requesting waiver of 37 CFR § 1.98(a)(1) is **DISMISSED AS MOOT**.

Applicant concedes that due to a typographical error, applicant provided an incorrect Document Number in the IDS filed on March 23, 2010. Applicant requests waiver of Rule 1.98(a)(1), so that the examiner of record may consider the proper Published US Patent Application Number, which allegedly can be readily ascertained through other identifying information provided in the March 23, 2010 IDS.

The examiner has indicated that he *has* considered the proper reference - Published US Patent Application Number 20060027659 - and his consideration will be indicated in the yet to be mailed response to the amendment after final action, filed on July 27, 2010. As such, the instant petition is dismissed as moot. The $400.00 petition fee will be refunded to petitioner's credit card.

This application is being referred to Technology Center G.A.U. 2193.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Paper No.

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO IL 60610

MAILED

FEB 15 2011

OFFICE OF PETITIONS

In re Patent No. 7,490,530	:	DECISION ON REQUEST
Ishikawa et al.	:	FOR
Issue Date: February 17, 2009	:	RECONSIDERATION OF
Application No. 11/127,726	:	PATENT TERM ADJUSTMENT
Filed: May 12, 2005	:	and
Atty Docket No. 9281-5070	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on April 17, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by nine hundred two(902) 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 two (902) days is **GRANTED**.

Receipt of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. No additional fees are required.

The application is being forwarded to the 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 two (902)** 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 : 7,490,530 B2

DATED : **February 17, 2009** **DRAFT**

INVENTOR(S) : Ishikawa 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 625 days

Delete the phrase "by 625 days" and insert – by 902 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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DOUGLAS T. JOHNSON
MILLER & MARTIN
1000 VOLUNTEER BUILDING
832 GEORGIA AVENUE
CHATTANOOGA, TN 37402-2289

MAILED

AUG 10 2011

OFFICE OF PETITIONS

In re Application of
William B. Staggs, Jr., et al
Application No. 11/127,785
Filed: May 12, 2005
Attorney Docket No.: 19678-0001

ON PETITION

This is a decision in response to the petition, filed August 1, 2011, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the final Office action mailed December 15, 2008. A Notice of Abandonment was subsequently mailed on November 19, 2009. On August 1, 2011, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $405, and the submission required by 37 CFR 1.114; (2) the petition fee of $810; and (3) an adequate statement of unintentional delay[1].

This application is being referred to Technology Center AU 3728 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

[1] 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).

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7,115,744	2006-10-03	11/127,811	2005-05-11	LE A 32 634 C1D1

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	/Jonathan R. Harris/	Date (YYYY-MM-DD)	2010-12-10
Name	Jonathan R. Harris	Registration Number	60473

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. 7115744
Issue Date: October 3,2006
Application No. 11127811
Filed: May 11,2005
Attorney Docket No. LE A 32 634 C1D1

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed December 10,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of December 10,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

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ExxonMobil Research & Engineering Company
P.O. Box 900
1545 Route 22 East
Annandale NJ 08801-0900

MAILED

AUG 11 2010

OFFICE OF PETITIONS

In re Application of	:	
Ramesh Varadaraj, et al.	:	
Application No. 11/127,824	:	DECISION ON PETITION
Filed: May 12, 2005	:	
Attorney Docket No. GJH-0536 (P2004J033)	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 2, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure s to timely pay the issue and publication fees on or before May 26, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed February 26, 2010, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on May 27, 2010. The Notice of Abandonment was mailed June 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 the $1,510 issue and the $300 publication fee, (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Terri Johnson at (571) 272-2991.

This application is being referred to the Office of Data Management for processing into a patent.

Terri Johnson
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

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JUN 14 2011

OFFICE OF PETITIONS

BRACEWELL & GIULIANI LLP
P.O. BOX 61389
HOUSTON, TX 77208-1389

In re Patent No. 7,247,493	:	
Issue Date: July 24, 2007	:	
Application No. 11/127,849	:	NOTICE
Filed: May 12, 2005	:	
Attorney Docket No.: 356651-991101	:	

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 no longer qualifies for small entity status. Accordingly, all future fees must be paid at the large entity rate.

It is noted that the present communication is not signed by a registered attorney or agent of record. However, in accordance with 37 CFR 1.34(a), the signature of Andrea M. Porterfield appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that she is authorized to represent the particular party on whose behalf he acts. A courtesy copy of this notice is being mailed to the address noted on this communication. Counsel is reminded that any Maintenance Fee Reminder which may be mailed regarding maintenance fees for the above-identified patent will be directed solely to the fee address of record.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3204.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: ANDREA M. PORTERFIELD
POLSINELLI SHUGHART PC
700 W 47TH ST., SUITE 1000
KANSAS CITY, MO 64112

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No.

MAILED
DEC 20 2010
OFFICE OF PETITIONS

Oliver Intellectual Property LLC
P.O. Box 1670
Cotuit MA 02635

In re Application of :
Dornhof :
Application No. 11/127,856 : DECISION ON PETITION
Filed: May 11, 2005 : PURSUANT TO
Attorney Docket No.: 870- : 37 C.F.R. § 1.137(B)
003-190 :
Title: METHOD FOR SENSORLESS :
OPERATION OF AN :
ELECTRONICALLY COMMUTATED :
MOTOR AND MOTOR FOR CARRYING :
OUT SUCH A METHOD :

This is a decision on the petition pursuant to 37 C.F.R. § 1.137(b), filed September 29, 2010, to revive the above-identified application.

This petition pursuant to 37 C.F.R. § 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed July 7, 2009, set a shortened statutory period for reply of three months. No response was received, and no extensions of time under the provisions of 37 C.F.R. § 1.136(a) were requested. Accordingly, the above-identified application became abandoned on October 8, 2009. A notice of abandonment was mailed on April 2, 2010.

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 remarks, the petition fee, and the proper statement of unintentional delay.

As such, the first three requirements of Rule 1.137(b) have been met. The fourth requirement of Rule 1.137(b) is not applicable, as a terminal disclaimer is not required.[1]

The Technology Center will be notified of this decision, and jurisdiction over this application is transferred to the Technology Center, so that the application may receive further processing. The Technology Center's support staff will notify the Examiner of this decision, so that the remarks that were received on September 29, 2010 can be processed in due course. Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the revival has been acknowledged by the Technology Center in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status.**

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[2] All other inquiries concerning this application should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

---

1 See Rule 1.137(d).
2 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

STANZIONE & KIM, LLP
919 18TH STREET, N.W.
SUITE 440
WASHINGTON DC 20006

MAILED
FEB 01 2011
OFFICE OF PETITIONS

In re Application of	:	
Robin Dua	:	
Application No. 11/127,979	:	DECISION ON PETITION
Filed: May 12, 2005	:	
Attorney Docket No. 701- 1003	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 9, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the final Office action mailed, December 16, 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 timely obtained. Accordingly, the application became abandoned on March 17, 2009. A Notice of Abandonment was mailed June 23, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $405.00 and the submission required by 37 CFR 1.114; (2) the petition fee of $810.00; and (3) a proper statement of unintentional delay.

Further, it is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must notify the Office.

Additionally, an extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $555.00, three- month extension of time fee submitted with the petition on June 9, 2010 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be refunded to petitioner's credit card in due course.

Further, the Power of Attorney and Change of Correspondence Address, is hereby accepted and made of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

This matter is being referred to Technology Center AU 2618 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

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 01 2011

OFFICE OF PETITIONS

PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

In re Patent No. 7,896,862	: DECISION ON REQUEST
Long et al.	: FOR
Issue Date: 03/01/2011	: RECONSIDERATION OF
Application No. 11/128,023	: PATENT TERM ADJUSTMENT
Filed: 05/12/2005	: and
Atty Docket No.	: NOTICE OF INTENT TO ISSUE
END5335USNP2	: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on April 19, 2011, under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one hundred twenty-six (126) 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 hundred twenty-six (126) days is **GRANTED**.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The Office thanks patentees for their good faith and candor in bringing this to the attention of the Office.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one hundred twenty-six (126)** 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 : 7,896,862 B2

DATED : **Mar. 1, 2011** **DRAFT**

INVENTOR(S) : Long 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 51 days.

Delete the phrase "by 51 days" and insert – by 126 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/128,265	05/13/2005	David Dakin Iorwerth Wright	07588.0079-01	7172

22852 7590 02/01/2011
FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

EXAMINER
HOLT, ANDRIAE M

ART UNIT	PAPER NUMBER
1616	

MAIL DATE	DELIVERY MODE
02/01/2011	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 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.
11128265	5/13/2005	WRIGHT ET AL.	07588.0079-01

EXAMINER
Andriae M. Holt

ART UNIT	PAPER
1616	20110128

DATE MAILED:

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

The color drawings that highlight specific details in the images submitted on December 22, 2009 have been accepted. The petition filed under 37 CFR 1.84(a)(2) is granted.

/Johann R. Richter/ 1/28/2011
Supervisory Patent Examiner, Art Unit 1616

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 09/03/10

TO SPE OF : ART UNIT 3734

SUBJECT : Request for Certificate of Correction for Appl. No.: 11128524 Patent No.: 7537601

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.

- [x] **Approved** — **All** changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: _____

TODD E. MANAHAN
SUPERVISORY PATENT EXAMINER

SPE

3734
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

THE HALVORSON LAW FIRM
STE 130
1757 E. BASELINE RD.
GILBERT AZ 85233

MAILED
AUG 24 2010
OFFICE OF PETITIONS

In re Application of
Kim, et al.
Application No. 11/128,534
Filed/Deposited: 13 May, 2005
Attorney Docket No. 632-005

DECISION ON PETITION

This is a decision on the petition filed on 9 June, 2010, pursuant to 37 C.F.R. §1.183 to suspend the rules—specifically, the requirements of the regulations at 37 C.F.R. §1.47.

NOTES:

Petitioner seeks relief pursuant to 37 C.F.R. §1.183 to suspend the rules (specifically, the requirements of the regulations at 37 C.F.R. §1.47), but fails to make a showing that he—Petitioner—has made an effort to seek out information in this matter.

Rather, Petitioner simply states that the he has no inkling of where the non-signing inventor is located and stands fast on that statement.

This is not appropriate.

Petitioners always are reminded that those registered to practice **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 inquire and disclose.[1] Registered practitioners do not satisfy this requirement simply by placing into the statements others the required showings herein.

Petitioner must make the showing with proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the papers in question (declaration with any necessary specification: description, claims and

[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).

drawings); with a statement of the last known address of the non-signing inventor(s)—with diligence in the effort to ascertain the validity of the address set forth as the reasonably believed to be last known/current/valid address.

Should Petitioner wish to renew his petition, she must make the showing required—i.e., her independent inquiry—as discussed below.

The petition pursuant to 37 C.F.R. §1.183 is **DISMISSED.**

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 Pursuant to 37 C.F.R. §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 C.F.R. §1.136(a).

This is **not** a final agency action within the meaning of 5 U.S.C. §704.

A grantable petition pursuant to 37 C.F.R. §1.47(a) requires: (1) petition and fee; (2) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification: description, claims and drawings); (3) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; and (4) a statement of the last known address of the non-signing inventor(s)—with diligence in the effort to ascertain the validity of the address set forth as the reasonably believed to be last known/current/valid address.

Petitioner does not seem to have worked through the requirements of the petition, as set forth above, in satisfaction of those requirements. (*See, generally:* MPEP §409.03, and §409.03(a)—the applicable statute (35 U.S.C.§ 116).

In particular, Petitioner has not as of this writing satisfied the requirement(s) of the petition as listed above and discussed below.

Petitioners always are reminded that for transmission by Email of any document to be accepted by the Office, written acknowledgment of receipt and readability of the message and all applicable attachments of required materials must be provided.

BACKGROUND

The record indicates:

On 9 June, 2010, Petitioner Kristofer E. Halverson (Reg. No. 39,211) filed, *inter alia*, a request and fee for continued examination, a submission in the form of an amendment pursuant to the regulations at 37 C.F.R. §1.114, and the instant petition with an averment, inter alia, that the non-signing inventor Joo Woun Kim (Mr. Kim) formerly worked for the assignee. Moreover, Petitioner averred that Mr. Kim "left the employ of IPBB Industries and cannot be located to execute *the papers required for filing the present patent application*." (Emphasis supplied.) (The application was filed 13 May, 2005.) In fact, by the Office action of 6 November, 2009, the Examiner required a newly executed oath/declaration.

Petitioner, as one registered to practice before the Office, well appreciates his duties of diligence, inquiry and candor expected of all who present to the Office.

However, Petitioner has failed to demonstrate performance in this matter.

Thus, Petitioner is expected to undertake his own inquiry in this matter—i.e., as to the showing that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the papers in question (declaration with any necessary specification: description, claims and drawings); with a statement of the last known address of the non-signing inventor(s)—with diligence in the effort to ascertain the validity of the address set forth as the reasonably believed to be last known/current/valid address. And Petitioner must present to the Office the evidence of that inquiry and its result(s)—consistent with her continuing duty to inquire and to disclose and to do so with candor[2]—on any renewed petition.

Petitioner is reminded of his duties of candor to—with requirement for diligent inquiry before—the Office and to satisfy the Rules of Practice and the guidance in the Commentary at MPEP §409.03, and §409.03(a), et seq.

Out of an abundance of caution, Petitioner should step through the requirements of a grantable petition under 37 C.F.R. §1.47(a) (i.e., (1) petition and fee; (2) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification: description, claims and drawings); (3) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; and (4) a statement of the last known address of the non-signing inventor(s)—with diligence in the effort to ascertain the validity of the address set forth as the reasonably believed to be last known/current/valid address)

---

[2] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on Petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

and satisfy himself that he has complied with these requirements on submission of any renewed petition. (*See also*: the guidance in the Commentary at MPEP §409.03, and §409.03(a), et seq.)

Again, Petitioner has not worked through the requirements of the petition.

ANALYSIS

Suspension of the rules pursuant to 37 C.F.R. §1.183 may be granted in an "extraordinary situation, when justice requires."

Specifically, the regulations at 37 C.F.R. §1.183 set forth the conditions required for their invocation/application:

> **§1.183 Suspension of rules.**
>
> In an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Director or the Director's designee, *sua sponte*, or on petition of the interested party, subject to such other requirements as may be imposed. Any petition under this section must be accompanied by the petition fee set forth in §1.17(f). (Emphasis supplied.)

It does not appear that Petitioner has as of this writing demonstrated the extraordinary situation for which Petitioner sought, *inter alia*, suspension of the rules (i.e., the requirements of the regulations at 37 C.F.R. §1.132) pursuant to 37 C.F.R. §1.183.
Thus, the present incompleteness of the record makes granting of the instant petition inappropriate.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application. Thus, now if one wishes to know the progress in and/or status of an application or the accuracy of the data therein, one need only look at the file online.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice *and* all others who make representations before the Office must inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[3]

---

[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

CONCLUSION

Accordingly, the petition considered pursuant to 37 C.F.R §1.183 (for waiver of the regulations at 37 C.F.R §1.47) is **DISMISSED**.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX: (571) 273-8300
ATTN: Office of Petitions

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[4]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

---

and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office). See specifically, the regulations at 37 C.F.R. §10.18.

[4] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

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THE HALVORSON LAW FIRM
STE 130
1757 E. BASELINE RD.
GILBERT AZ 85233

MAILED
NOV 22 2010
OFFICE OF PETITIONS

In re Application of
Kim, et al.
Application No. 11/128,534
Filed/Deposited: 13 May, 2005
Attorney Docket No. 632-005

DECISION ON PETITION

This is a decision on the petition filed on 22 October, 2010, pursuant to the provisions of 37 C.F.R. §1.47.

The petition pursuant to 37 C.F.R. §1.47 is **DISMISSED.**

A grantable petition pursuant to 37 C.F.R. §1.47(a) requires: (1) petition and fee; (2) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification: description, claims and drawings); (3) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; and (4) a statement of the last known address of the non-signing inventor(s)—with diligence in the effort to ascertain the validity of the address set forth as the reasonably believed to be last known/current/valid address.

Petitioners always are reminded that for transmission by Email of any document to be accepted by the Office, written acknowledgment of receipt and readability of the message and all applicable attachments of required materials must be provided.

BACKGROUND

The record indicates:

On 9 June, 2010, Petitioner Kristofer E. Halverson (Reg. No. 39,211) filed, *inter alia*, a request and fee for continued examination, a submission in the form of an amendment pursuant to the regulations at 37 C.F.R. §1.114, and the instant petition with an averment, inter alia, that the non-signing inventor Joo Woun Kim (Mr. Kim) formerly worked for the assignee. Moreover, Petitioner averred that Mr. Kim "left the employ of IPBB Industries and cannot be located to

execute *the papers required for filing the present patent application.*" (Emphasis supplied.) (The application was filed 13 May, 2005.) In fact, by the Office action of 6 November, 2009, the Examiner required a newly executed oath/declaration and what Petitioner sought in fact was to suspend the rules pursuant to 37 C.F.R. §1.183—specifically, the requirements of the regulations at 37 C.F.R. §1.47. The petition was dismissed on 24 August, 2010, for failure to make the showing(s) required.

On 22 October, 2010, Petitioner renewed his petition, and averred that consistent with the guidance in the Commentary at MPEP §409.03, and §409.03(a) et seq., he made a new search, located an address and sent the application to the non-signing inventor, who executed the oath/declaration and so joined in the application. In support of the averment, Petitioner submitted a copy of the oath/declaration, which evidenced/demonstrated, *inter alia*, execution/signing by and joinder of all inventors—i.e. Michael D. Hooper and Joo Woun Kim.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application. Thus, now if one wishes to know the progress in and/or status of an application or the accuracy of the data therein, one need only look at the file online.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice *and* all others who make representations before the Office must inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

CONCLUSION

The instant petition under 37 C.F.R. §1.47 is **dismissed as moot for joinder**.

In view of the joinder of the inventor, further consideration under 37 C.F.R. §1.47 is not necessary. This application does not have any Rule 1.47 status and no such status should appear on the record for this file. This application should not be returned to this Office for any further consideration under 37 C.F.R. §1.47.

[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office). See specifically, the regulations at 37 C.F.R. §10.18.

The instant application is released to the Office of Patent Application Processing (OPAP) for further processing in due course before being returned to the Technology Center for further processing.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[2]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[2] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED

MAR 12 2012

OFFICE OF PETITIONS

ADELI & TOLLEN, LLP
11859 Wilshire Blvd., Suite 500
LOS ANGELES CA 90025

In re Patent No. 7,471,655	:	
Issued: December 30, 2008	:	
Application No.: 11/128,615	:	NOTICE
Filed: May 12, 2005	:	
Attorney Docket No: **KNTO.P0068**	:	

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**.

Deposit account 50-3804 will be charged $1,465.0 for the deficiency.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAILED
SEP 20 2011
OFFICE OF PETITIONS

SLATER & MATSIL, L.L.P.
17950 PRESTON RD, SUITE 1000
DALLAS TX 75252-5793

In re Application of	:	
Brar, et al.	:	
Application No. 11/128,623	:	NOTICE
Filed: May 13, 2005	:	
Attorney Docket No. CDW-006	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28, filed August 18, 2011.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
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: Everett 1-1 (MW)-US-NP	Patent Number: 7,660,745
Filing Date (or 371(b) or (f) Date): May 13, 2005	Issue Date: February 9, 2010
First Named Inventor: Matthew W. Everett	
Title: System and method for price analysis and negotiation	

PATENTEE HEREBY REQUESTS RECALCULATION OF THE PATENT TERM ADJUSTMENT (PTA) UNDER 35 USC 154(b) INDICATED ON THE ABOVE-IDENTIFIED PATENT. THE PATENTEE'S SOLE BASIS FOR REQUESTING THE RECALCULATION IS THE USPTO'S PRE-*WYETH* INTERPRETATION OF 35 U.S.C. 154(b)(2)(A).

Note: This form is only for requesting a recalculation of PTA for patents issued before March 2, 2010, if the sole basis for requesting the recalculation is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A). See Instruction Sheet on page 2 for more information.

Patentees are reminded that to preserve the right to review in the United States District Court for the District of Columbia of the USPTO's patent term adjustment determination, a patentee must ensure that he or she also takes the steps required under 35 U.S.C. 154(b)(3) and (b)(4) and 37 CFR 1.705 in a timely manner.

**Wyeth v. Kappos*, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).

Signature /Gregory J. Murgia/	Date August 9, 2010
Name (Print/Typed) Gregory J. Murgia	Registration Number 41,209

***Note**: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required in accordance with 37 CFR 1.33 and 11.18. Please see 37 CFR 1.4(d) for the form of the signature. If necessary, submit multiple forms for more than one signature, see below**.*

☑ *Total of 1 forms are submitted.

The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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PRIEST & GOLDSTEIN, PLLC
5015 SOUTHPARK DR
SUITE 230
DURHAM, NC 27713

Mail Date: 08/17/2010

Applicant	: Matthew W. Everett	: DECISION ON REQUEST FOR
Patent Number	: 7660745	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/128,641	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/13/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1307** 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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Paul D. Greeley, ESQ.
OHLANDT, GREELEY, RUGGIERO & PERLE, L.L.P.
ONE LANDMARK SQUARE
10th FLOOR
STAMFORD CT 06901-2682

MAILED

OCT 01 2010

OFFICE OF PETITIONS

In re Application of :
Charles Palmer et al. :
Application No. 11/128,765 :
Filed: May 13, 2005 :
Attorney Docket No. **823.0002USX1** :

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

Inquiries related to this communication should be directed to the undersigned at (571) 272-2783.

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions

cc: **DOUGLAS L. WATHEN**
GIFFORD, KRASS, SPRINKLE, ANDERSON &
CITKOWKSI, P.C.
P.O. BOX 7021
TROY MI 48007-7021

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AUG 10 2011
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InTouch Health
C/O CPA Global
P.O. Box 52050
Minneapolis MN 55402

In re Application of	:	
WANG et al.	:	
Application No. 11/128,770	:	DECISION ON PETITION
Filed: May 12, 2005	:	
Attorney Docket No. P016	:	

This is a decision on the petition under 37 CFR 1.78(a)(3) filed March 17, 2011, and resubmitted on May 17, 2011, to accept an unintentionally delayed claim under 35 U.S.C. 120 for the benefit of prior-filed nonprovisional applications. This is also a decision on the petition under 37 CFR 1.137(b) filed May 17, 2011, to revive the above-identified application.

The petition under 37 CFR 1.78(a)(3) is **dismissed.**

The petition under 37 CFR 1.137(b) is **dismissed.**

Petition under 37 CFR 1.78(a)(3)

A petition for acceptance of an unintentionally delayed claim under 35 U.S.C. 120 for the benefit of prior-filed nonprovisional applications pursuant to 37 CFR 1.78(a)(3) is applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition does not comply with item (1).

Applicants submitted the reference required by 35 U.S.C. 120 by filing an amendment to the first sentence of the specification following the title. Nevertheless, the amendment is unacceptable. The Office notes that applicants are seeking to claim the benefit of **later filed** nonprovisional applications. Specifically, the reference included in the amendment to the specification states, in pertinent part: "This application [No. 11/128,770 filed May 12, 2005] is a continuation of Application No. 12/345,161 filed December 29, 2008, pending; which is a continuation of Application No. 12/148,247, filed on April 16, 2008, pending; which is a continuation of Application No. 11/835,628, filed on August 8, 2007, pending; which is a divisional of Application No. 11/138,595, filed May 25, 2005, now U.S. Pat. No. 7,310,570 issued December 18, 2007 ..."

37 CFR 1.78(a)(3) states, in pertinent part:

> If the reference required by 35 U.S.C. 120 and paragraph (a)(2) of this section is presented after the time period provided by paragraph (a)(2)(ii) of this section, the claim under 35 U.S.C. 120, 121, or 365(c) for the benefit of a **prior-filed** copending nonprovisional application or international application designating the United States of America may be accepted if the reference identifying the **prior-filed** application by application number or international application number and international filing date was unintentionally delayed.

(Emphasis added).

The claim under 35 U.S.C. 120 for benefit of Application No. 12/345,161 filed December 29, 2008, Application No. 12/148,247 filed on April 16, 2008, Application No. 11/835,628 filed on August 8, 2007, and Application No. 11/138,595 filed May 25, 2005, is improper because those applications were filed after the filing date of the subject application, No. 11/128,770 filed May 12, 2005.

Accordingly, the petition under 37 CFR 1.78(a)(3) is dismissed. Applicants must file a renewed petition under 37 CFR 1.78(a)(3), accompanied by a proper reference to the prior applications in compliance with 35 U.S.C. 120 and 37 CFR 1.78(a)(2)(i) in either a Supplemental Application Data Sheet or an amendment to the first sentence of the specification. 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, an ADS, supplemental ADS, or a substitute amendment submitted after the filing of an application must be signed in accordance with 37 CFR 1.33(b). No additional petition fee is required.

Petition under 37 CFR 1.137(b)

A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;

(2) The petition fee as set forth in 37 CFR 1.17(m);

(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 § 1.20(d)) required pursuant to 37 CFR 1.137(d).

The present petition does not satisfy requirement (1) above.

As indicated above, the amendment to the specification is improper and is not an acceptable reply to the outstanding non-final Office action.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
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Alexandria, VA 22313-1450

By hand: Customer Service Window
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Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Correspondence may also be submitted via the Electronic Filing System of the USPTO.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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SEP 30 2010

OFFICE OF PETITIONS

In re Application of Kivinen, et al. Application No. 11/128,933 Filed: May 12, 2005 Attorney Docket No. 068800-0383553	DECISION ON PETITION UNDER 37 CFR 1.78(a)(3)

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed July 21, 2010, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the application No. 09/333,829, set forth in the Application Data Sheet submitted with the petition.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The instant petition has not satisfied requirement (1) above.

The petition must be dismissed because the ADS does not give the proper relationship to application No. 09/333,829 ("parent" does not constitute a proper relationship). While petitioner did provide the relationship in the Amendment filed on August 10, 2009, the Amendment was not entered.

Before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition and either an Application Data Sheet or a substitute amendment (complying with the provisions of 37 CFR 1.121 and 37 CFR 1.76(b)(5)) to correct the above matter is required.

Further correspondence with respect to this matter should be addressed as follows:

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401 Dulany Street
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By fax: (571) 273-8300
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Any inquiries concerning this decision may be directed to Petitions Attorney Cliff Congo at (571) 272-3207.

Chris Bottorff
Supervisor
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:	
Kivinen, et al.	:	
Application No. 11/128,933	:	DECISION ON PETITION
Filed: May 12, 2005	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 068800-0383553	:	

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed October 13, 2010, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the application No. 09/333,829, set forth in the Application Data Sheet submitted with the petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the

benefit of the prior-filed application, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Petitions Attorney Cliff Congo at (571) 272-3207. 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 2436 for consideration by the examiner of applicants' entitlement to claim benefit of priority under 35 U.S.C. § 120 to the non-provisional application set forth in the ADS, filed October 13, 2010.

Chris Bottorff
Supervisor
Office of Petitions

Enc: Corrected Filing Receipt (3 pages)

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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
11/128,933	05/12/2005	2436	600	068800-0383553	9	4

CONFIRMATION NO. 8740

CORRECTED FILING RECEIPT

909
PILLSBURY WINTHROP SHAW PITTMAN, LLP
P.O. BOX 10500
MCLEAN, VA 22102

OC000000043653548

Date Mailed: 11/08/2010

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Tero Kivinen, Espoo, FINLAND;
Tatu Ylonen, Espoo, FINLAND;

Assignment For Published Patent Application

SSH Communications Security Ltd, Espoo, FINLAND

Power of Attorney: The patent practitioners associated with Customer Number 00909

Domestic Priority data as claimed by applicant

This application is a CON of 09/333,829 06/15/1999 PAT 6,957,346

Foreign Applications

If Required, Foreign Filing License Granted: 06/13/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/128,933**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

Method and arrangement for providing security through network address translations using tunneling and compensations

Preliminary Class

726

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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FEB 24 2011

OFFICE OF PETITIONS

In re Application of	:	
Kivinen et al.	:	
Application No. 11/128,933	:	DECISION ON PETITION
Filed: May 12, 20059	:	
Attorney Docket No. 068800-0383553	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 11, 2011, which will be 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 reply in a timely manner to the Notice of Non-Compliant Amendment, mailed March 31, 2010, which set a period for reply of one (1) month or thirty (30) days, whichever is longer. A Notice of Abandonment was mailed November 18, 2010.

Petitioner contends that the response was timely and that "Applicant filed exactly the response requested in the Notice of Non-Compliant Amendment." A review of USPTO reveals as evidence a timely and *bona fide* attempt by Applicant was filed April 27, 2010 in response to the Notice of Non-Compliant Amendment mailed March 31, 2010.

In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. Further, the petition under 37 CFR 1.137(b) is hereby **DISMISSED AS MOOT**.

A petition to withdraw the holding of abandonment under the provisions of 37 CFR 1.181 does not require a fee. Accordingly, the small entity $810.00 petition fee submitted with the 1.137(b) will be credited to petitioner's deposit account in due course.

Telephone inquiries concerning this decision should be directed to Joan Olszewski at (571) 272-7751.

The application file is being referred to Technology Center AU 2436 for appropriate action on the concurrently filed amendment.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

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MAR 16 2011

OFFICE OF PETITIONS

MARGARET ANDERSON
106 E. 6TH STREET, SUITE 900
AUSTIN TX 78701

In re Application of	:	
Jung et al.	:	DECISION ON PETITION
Application No. 11/129,045	:	TO WITHDRAW
Filed: May 13, 2005	:	FROM RECORD
Attorney Docket No. QQ1-0123US	:	

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 September 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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APR 10 2012
OFFICE OF PETITIONS

ADELI & TOLLEN, LLP
11859 WILSHIRE BLVD., SUITE 500
LOS ANGELES CA 90025

In re Patent No. 7,349,698	:	
Issue Date: March 25, 2008	:	
Application No. 11/129,131	:	NOTICE
Filed: May 12, 2005	:	
Attorney Docket No. KNTO.P0067	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to Diane Goodwyn at (571) 272-6735.

Thurman K. Page
Petitions Examiner
Office of Petitions

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ADELI & TOLLEN, LLP
11940 SAN VICENTE BLVD., SUITE 100
LOS ANGELES, CA 90049

MAILED
MAR 30 2011
OFFICE OF PETITIONS

In re Application of	:	
Michael D. GALLAGHER et al	:	
Application No. 11/129,134	:	NOTICE
Filed: May 12, 2005	:	
Attorney Docket No. KNTO.P0023	:	

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) 272-0602.

Thurman K. Page
Petitions Examiner
Office of Petitions

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PATENT DEPT - INTUITIVE SURGICAL OPERATIONS
1266 KIFER RD BLDG 101
SUNNYVALE CA 94086

MAILED

JUN 01 2011

OFFICE OF PETITIONS

In re Application of	:	
Amir Belson	:	
Application No. 11/129,172	:	DECISION ON PETITION
Filed: May 13, 2005	:	
Attorney Docket No. 11042-704.314	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 14, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, April 2, 2010, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on July 3, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application.

Telephone inquiries concerning this decision should be directed to Terri Johnson at (571) 272-2991.

This application is being referred to Technology Center AU 3779 for appropriate action by the Examiner in the normal course of business on the reply received.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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REED SMITH, LLP
ATTN: PATENT RECORDS DEPARTMENT
599 LEXINGTON AVENUE, 29TH FLOOR
NEW YORK, NY 10022-7650

MAILED

AUG 19 2010

OFFICE OF PETITIONS

In re Application of :
James Peter Tagg, et al. :
Application No. 11/129,184 : ON PETITION
Filed: May 12, 2005 :
Attorney Docket No.: TAGG P-1CIP/500836.20004:

This is a decision in response to the petition, filed June 18, 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 October 6, 2009, 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 January 7, 2010. A Notice of Abandonment was mailed on April 21, 2010. In response, on June 18, 2010, the present petition was filed.

The petition is not signed by an attorney or agent of record. However, in accordance with 37 CFR 1.34(a), the signature of Cheryl L. Gatineau appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that she is authorized to represent the particular party on whose behalf she acts. A courtesy copy of this decision is being mailed to petitioner; however, all future correspondence regarding this application file will be directed solely to the address of record.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of amendment; (2) the petition fee of $810; and (3) an adequate statement of unintentional delay[1].

Extensions of time under 37 CFR 1.136 are available only if asked for prior to or with the response. In no case, however, may an applicant respond later than the maximum time period set by statute. Accordingly, if the question of abandonment arises when the provisions of 37 CFR 1.136 can no longer be used, then the application is abandoned when the unextended time for

[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.

response has expired. Since, no extension of time fees are due on a petition for revival, the $555 extension fees included with this petition are being refunded

The application is being referred to Technology Center AU 2456 for appropriate action by the Examiner in the normal course of business on the reply received June 18, 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

cc: CHERYL L. GATINEAU
P.O. BOX 488
PITTSBURGH, PA 15230

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)
7147061	2006-12-12	11129234	2005-05-13	411500-1

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	/jrp/	Date (YYYY-MM-DD)	2011-03-11
Name	Jerry R. Potts	Registration Number	27091

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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In re Patent No. 7147061
Issue Date: December 12,2006
Application No. 11129234
Filed: May 13,2005
Attorney Docket No. 792101-1

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed March 11,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of March 11,2011 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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ADELI & TOLLEN, LLP
11859 Wilshire Blvd., Suite 500
LOS ANGELES CA 90025

MAILED
MAR 08 2012
OFFICE OF PETITIONS

In re Application of	:	
Gallagher et al.	:	
Application No. 11/129424	:	
Filing or 371(c) Date: 05/12/2005	:	LETTER
Attorney Docket Number: KNTO.P0066	:	

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**.

Telephone inquiries concerning this petition Decision should be directed to the undersigned at (571) 272-3232.

/DLW/

Derek L. Woods
Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : June 7, 2011

TO SPE OF : ART UNIT 2441 SPE

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/129,476 Patent No.: 7,533,144 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square Building
2800 South Randolph Street
Arlington, VA 22206

Should the claims be amended as requested by applicant?

See COCIN dated 5-16-2011

Antonio Johnson

Certificates of Correction Branch

(571)272-0483 Fax – (571)270-9846

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☐ **Approved**	**All** changes apply.
☒ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: Changes do not apply: 1- Column 9 , line 22 ("header of an IP datagram" and "IP datagram" are different in scope); 2- Column 27 line 63 ("generating or causing to generate, at a frameset server" and "generating or causing to generate" are different in scope); 3- Column 29 line 42-line 47 ("said conditional step of inhibiting generation of a new first frame is applied selectively" is a new claimed limitation); and 4- Column 30 line 1 ("generate by a frameset server the web page" and "generate the web page" are different in scope). **SPE /Wing F. Chan/ Art Unit 2441**

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David A. Rubin
Merck & Co., Inc.
Patent Dept., RY60-30
P. O. Box 2000
Rahway, NJ 07065-0907

MAILED
DEC 15 2010
OFFICE OF PETITIONS

In re Patent of Goble et al.	:	
Patent No. 7,700,591	:	
Issue Date: April 20, 2010	:	DECISION ON REQUEST
Application No. 11/129,512	:	FOR RECONSIDERATION OF
Filing Date: May 13, 2005	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 222101A	:	

This is a decision on the petition under 37 C.F.R. § 1.705(d) filed June 17, 2010, requesting the patent term adjustment indicated on the patent be corrected to indicate the term of the patent is extended or adjusted by five hundred forty-five (545) days.

The request for reconsideration of the patent term adjustment indicated on the patent is **dismissed**.

The patent issued April 20, 2010. This request for reconsideration was timely filed within two months of the issue date of the patent.

Patentees argue the correct patent term adjustment is 545 days, not 489 days, based on an assertion the Office's entry of a 56-day reduction under 37 C.F.R. § 1.704(c)(10) was improper.

Background

Pursuant to 37 C.F.R. § 1.63(d), a copy of an executed oath or declaration from a prior application can be filed in a continuation or divisional application if certain criteria are met.

The instant application is a continuation of International Application No. PCT/US04/1281.

A copy of the executed declaration filed in the prior application was filed in this case with the original application papers on May 13, 2005.

The Office issued a Notice of Allowance and a Notice of Allowability on November 30, 2009. The Notice of Allowability did *not* require the submission of a supplemental declaration.

Patentees filed a paper titled "Supplemental Declaration" with payment of the issue fee on February 24, 2010. The transmittal letter did not identify the reason the supplemental declaration was being filed. The letter simply stated,

> A Supplemental Declaration under 37 CFR § 1.67 is enclosed herewith. No fee is believed to be due with this Supplemental Declaration. If a fee is required, it may be charged to Merck Deposit Account No. 13-2755.

The Office did not issue a response to the supplemental declaration prior to issuance of the patent on April 20, 2010.

The number of days beginning February 24, 2010, the date the supplemental declaration was filed, and ending April 20, 2010, the date the patent issued, is 56 days. Therefore, the Office entered a 56-day reduction in patent term adjustment under 37 C.F.R. § 1.704(c)(10).

Discussion

Patentees argue the 56-day reduction in patent term adjustment under 37 C.F.R. § 1.704(c)(10) is improper.

Although 37 C.F.R. § 1.704(c)(10) states a reduction will be entered for any paper filed after issuance of a notice of allowance, the Office has recognized the filing of some types of papers will not result in a reduction. Specifically, clarification of the scope of 37 C.F.R. § 1.704(c)(10) is set forth in Manual of Patent Examining ("MPEP") § 2732 (8th ed., Rev. 8, July 2010), which states, with emphasis added,

> 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.**

MPEP § 2732 explicitly recognizes a reduction in patent term adjustment is warranted under 37 C.F.R. § 1.704(c)(10) if an oath or declaration is failed after the Office issues a Notice of Allowance.

Patentees state the declaration in this case should not result in a reduction.

Patentees assert the Office's processing of the application was not actually delayed by the need for any Office employee to place the declaration in the file because the declaration was filed electronically. Patentees also assert, "Since [the declaration] was not subject to further review by an employee of the PTO, it seems unlikely that submission of the declaration could have caused any delay." Patentees cite MPEP § 603.01 in support of the prior assertions. MPEP § 603.01 states,

> Since the decision in *Cutter Co. v. Metropolitan Electric Mfg. Co.*, 275 F. 158 (2d Cir. 1921), many supplemental oaths and declarations covering the claims in the application have been filed after the applications were allowed. Such oaths and declarations may be filed as a matter of right and when received they will be placed in the file by the Office of Data Management, but their receipt will not be acknowledged to the party filing them. They should not be filed or considered as amendments under 37 CFR 1.312, since they make no change in the wording of the papers on file. *See* MPEP § 714.16.

The Office has considered Patentees's arguments. However, the Office is not persuaded entry of the 56-day reduction was improper.

Pursuant to 37 C.F.R. § 1.704(c)(10), "[s]ubmission of an amendment under [37 C.F.R.] § 1.312 or other paper after a notice of allowance has been given or mailed" is an act which will result in a reduction in patent term adjustment. When clarifying the scope of 37 C.F.R. § 1.704(c)(10),

the Office *clearly, explicitly and officially* recognized, in both an Official Gazette notice and in the MPEP, that oaths or declarations filed after allowance warrant a reduction in patent term adjustment under 37 C.F.R. § 1.704(c)(10).[1]

The declaration in this case appears to be a declaration falling within the parameters of 37 C.F.R. § 1.67(b), which states,

> A supplemental oath or declaration meeting the requirements of § 1.63 must be filed when a claim is presented for matter originally shown or described but not substantially embraced in the statement of invention or claims originally presented.

If a supplemental declaration filed after allowance did not warrant a reduction in patent term adjustment, the Office could have stated papers that will result in a reduction in patent term adjustment if filed after allowance include "oaths or declarations, except for oaths or declarations filed under 37 C.F.R. § 1.67(b)" when clarifying the scope of 37 C.F.R. § 1.704(c)(10). However, the Office did *not* create such an exception.

In order for the Office to ignore its official interpretation of the scope of a regulation promulgated by the Office, Petitioner would need to establish, at a minimum, the Office's interpretation of the regulation is unreasonable. The record does not prove the Office's failure to create an exception for declarations under 37 C.F.R. § 67(b) was unreasonable.

A policy of entering a reduction in patent term adjustment under 37 C.F.R. § 1.704(c)(10) for all supplemental oaths or declarations filed after allowance except for oaths or declarations filed purely under 37 C.F.R. § 1.67(b) would impair the Office's ability to promptly and efficiently issue patents after payment of the issue fee. An exception for declarations filed purely under 37 C.F.R. § 1.67(b) would require the Office to review every declaration after allowance in order to determine if the declaration was filed purely under 37 C.F.R. § 1.67(b).

Facts in the instant case illustrate the difficulty of implementing a policy which would require the Office to evaluate each declaration filed after allowance in order to determine if the declaration is being filed with the sole purpose of covering claims for matter originally shown and described, but not embraced in the statement of invention or original. The cover letter filed with the declaration in this only simply indicated a supplemental declaration was being filed. The cover letter did <u>not</u> *clearly* and *prominently* state the declaration was being filed under 37 C.F.R. § 1.67(b) and the letter did not include any reference to the *Cutter* decision, 37 C.F.R. § 1.67(b), or MPEP § 603.01. The cover letter also did <u>not</u> *clearly* and *prominently* state the declaration was *not* being filed for any reason other than to cover claims for matter originally shown and described, but not embraced in the statement of invention or original. As a result of the brevity of the cover letter, any Office employee could not know, based solely on the contents of the cover letter, whether or not the supplemental declaration was being filed:

(A) In order to correct one or more deficiencies or inaccuracies related to all the inventors as discussed in 37 C.F.R. § 1.67(a)(1),

---

[1] *See* MPEP § 2732 and *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).

(B) In order to correct one or more deficiencies or inaccuracies related to fewer than all the inventors as discussed in 37 C.F.R. § 1.67(a)(1),
(C) As a result of the fact the party previously filed a copy of an oath or declaration from a prior nonprovisional application and the party believes the claims in this case may be directed to matter shown and described in the prior non-provisional application, which was not claimed in the prior application,
(D) For reasons (A) and (B),
(E) For reasons (A) and (C),
(F) For reasons (B) and (C), or
(G) For reasons (A), (B), and (C).

In view of the prior discussion, the record fails to establish the Office's official interpretation of the scope of 37 C.F.R. § 1.704(c)(10) is unreasonable. As a result, the record is insufficient to establish entry of the 56-day reduction in patent term adjustment for the supplemental declaration filed February 24, 2010.

The Office notes, in the future, Patentees may wish to avoid reductions in patent term adjustment under 37 C.F.R. § 1.704(c)(10) by filing declarations under 37 C.F.R. § 1.67(b) prior to the issuance of a notice of allowance.

Conclusion

In view of the prior discussion, Patentees have not established the February 24, 2010 declaration should not have resulted in a 56-day reduction under 37 C.F.R. § 1.704(c)(10).

The 489-day patent term adjustment determination set forth on the patent will not be changed.

Submission of the $200.00 fee set forth in 37 C.F.R. § 1.18(e) is acknowledged. No additional fee is required.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Decision Date : October 7,2011

In re Application of :

Vahid Saadat

Application No : 11129513

Filed : 13-May-2005

Attorney Docket No : USGINZ00730

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY/AGENTOF RECORD

This is an electronic decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed October 7,2011

The request is **APPROVED.**

The request was signed by Johney U. Han (registration no. 45565) on behalf of all attorneys/agents associated with Customer Number 40518 . All attorneys/agents associated with Cusotmer Number 40518 have been withdrawn.

Since there are no remaining attorneys of record, all future communications from the Office will be directed to the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71, with correspondence address:

Name	USGI Medical, Inc.
Name2	
Address 1	1140 Calle Cordillera
Address 2	
City	San Clemente
State	CA
Postal Code	92673
Country	US

As a reminder, requester is required to inform the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71 of the electronically processed petition.

Telephone inquiries concerning this decision should be directed to the Patent Electronic Business Center (EBC) at 866-217-9197.

Office of Petitions

Doc Code: PET.AUTO **Document Description: Petition automatically granted by EFS-Web**	PTO/SB/83 U.S. Patent and Trademark Office Department of Commerce

Electronic Petition Request	**REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS**
Application Number	11129513
Filing Date	13-May-2005
First Named Inventor	Vahid Saadat
Art Unit	3779
Examiner Name	VICTORIA CHEN
Attorney Docket Number	USGINZ00730
Title	Methods and apparatus for performing endoluminal procedures

◉ 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

MAILED

SEP 07 2010

OFFICE OF PETITIONS

FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

In re Patent No. 7,521,596	: DECISION ON PATENT TERM
Issued: April 21, 2009	: ADJUSTMENT and NOTICE OF INTENT
Application No. 11/129,574	: TO ISSUE CERTIFICATE OF
Filed: May 16, 2005	: CORRECTION
Dkt. No.: 023174-0132	:

This is a decision on the petition filed on May 19, 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 690 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 690 days is **GRANTED**.

The Office acknowledges the previous submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of 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 **690** days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,521,596

DATED : **April 21, 2009** **DRAFT**

INVENTOR(S) : Matsushima, 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 376 days

Delete the phrase "by 376 days" and insert – by 690 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

COLLARD & ROE, P.C.
1077 NORTHERN BOULEVARD
ROSLYN NY 11576

MAILED

DEC 20 2010

OFFICE OF PETITIONS

In re Application of :
Helmut Matzunsky et al. :
Application No. 11/129,585 :
Patent No. 7,856,913 :
Filed: May 13, 2005 :
Attorney Docket No. **050690-US**

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.

Inquiries related to this communication should be directed to the undersigned at (571) 272-272-2783.

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SNR DENTON US LLP
P.O. BOX 061080
CHICAGO IL 60606-1080

MAILED
NOV 08 2011
OFFICE OF PETITIONS

In re Application of	:	
ZIAUDDIN, et al	:	
Application No. 11/129,618	:	DECISION ON PETITION
Filed: May 13, 2005	:	TO WITHDRAW
Attorney Docket No. 12000010-0002-002	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 12, 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 Tarek N. Fahmi on behalf of the attorneys of record associated with Customer No. 26263.

The attorneys of record associated with Customer No. 26263 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

All future communications from the Office will be directed to the address indicated below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

/Diane Goodwyn/
Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: STREAMING NETWORKS
1765 SCOTT BOULEVARD, SUITE 110
SANTA CLARA CA 95050

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
11/129,618	05/13/2005	Syed Muhammad Ziauddin	12000010-0002-002

CONFIRMATION NO. 9977

POWER OF ATTORNEY NOTICE

26263
SNR DENTON US LLP
P.O. BOX 061080
CHICAGO, IL 60606-1080

OC000000050841200

Date Mailed: 11/07/2011

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/12/2011.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/dcgoodwyn/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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CLARK G. SULLIVAN
ARNALL GOLDEN GREGORY LLP
SUITE 2100
171 17TH STREET NW
ATLANTA, GA 30363

MAILED
OCT 15 2010
OFFICE OF PETITIONS

In re Application of :
Alberto **MACCIOCCHI** et al :
Application No. 11/129,839 : ON PETITION
Filed: May 16, 2005 :
Attorney Docket No. 01677.105002 (US) :

This is a decision on the petition, filed on September 2, 2010, which is being treated as a petition requesting that the requirement of 37 CFR 1.131 be waived pursuant to 37 CFR 1.183 in order to permit prosecution to continue on the above-identified application.

The petition is **GRANTED**.

On September 2, 2010 petitioners in response to the non-final office action dated January 15, 2010, filed a supplemental response with a 37 CFR 1.131 declaration without the signature of deceased inventor Alberto Macciocchi. A petition for suspension of the rules was included along with said supplemental response and the petition fee of $400.00. Petitioner now requests a decision on the petition suspending the rules, allowing entry and consideration of the 37 CFR 1.131 declaration of Alberto Macciocchi, Sergio Cantoreggi, Enrico Braglia, and Riccardo Braglia, without the signature of Alberto Macciocchi. Petitioner indicates that the signature of Alberto Macciocchi is not needed because the conception and reduction to practice of this invention is well documented in the submitted clinical studies and the remaining inventors are very familiar with the clinical studies and Alberto Macciocchi's involvement therein.

Here 37 CFR 1.131 requires the signature of the inventors of the subject matter claimed. 37 CFR 1.183 provides that in an extraordinary situation, when justice requires, any requirement of the regulations which is not a requirement of the statutes may be suspended or waived by the Commissioner. Upon consideration, the petition is granted, allowing entry of the 37 CFR 1.131 declaration, without the required signature of Alberto Macciocchi.

This application is being forwarded to the Technology Center 1600, Art Unit 1627 for examination in due course of the response filed September 2, 2010.

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-0602.

Thurman K. Page
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 9/12/2011

TO SPE OF : ART UNIT 2895

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/129,862 Patent No.: 7875556B2

CofC mailroom date: 9/2/2011

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Note: _____

Virginia Tolbert

Certificates of Correction Branch

(571) 272-0460

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- [X] **Approved** — All changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: _____

approved
/N. Drew Richards/ - SPE 2895

SPE **Art Unit**

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7,222,575	2007-05-29	11/130,041	2005-05-16	250600-000012USC2

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	/Stephen G. Rudisill, Reg. No. 20087/	Date (YYYY-MM-DD)	2012-01-13
Name	Stephen G. Rudisill	Registration Number	20087

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. 7222575
Issue Date: May 29,2007
Application No. 11130041
Filed: May 16,2005
Attorney Docket No. 50600-00012USC2

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed January 13,2012 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of January 13,2012 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES 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. 7229006
Issue Date: June 12,2007
Application No. 11130131
Filed: May 17,2005
Attorney Docket No. AURORA-0004US

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed August 11,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of August 11,2011 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7229006	2007-06-12	11/130,131	2005-05-17	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	● 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ● An attorney or agent registered to practice before the Patent and Trademark Office
- ○ A sole patentee
- ○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ○ A joint patentee; all of whom are signing this e-petition
- ○ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/J P Kincart/	Date (YYYY-MM-DD)	2011-08-11
Name	Joseph P Kincart	Registration Number	43716

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/130,325	05/16/2005	David P. Kanios	041457-0927	2962

22428 7590 05/11/2011
FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON, DC 20007

EXAMINER
COLLINS, RAVEN

ART UNIT	PAPER NUMBER
3788	

MAIL DATE	DELIVERY MODE
05/11/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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www.uspto.gov

FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

In re Application of: KANIOS, DAVID P. et al Serial No. 11/130,325 Filed: May 16, 2005 Docket: 041457-0927 Title: PACKAGING SYSTEM FOR TRANSDERMAL DRUG DELIVERY SYSTEMS	DECISION ON PETITION UNDER 37 CFR § 1.181

This is a decision on the request filed May 2, 2011 under 37 CFR 1.181 requesting withdrawal of the finality of the last Office action mailed March 3, 2011.

The petition is **Granted.**

In finding petitioner's points of argument persuasive, the requested relief is granted. As such, the finality of the Office actions issued on March 3, 2011 is premature and the finality of the Office action is hereby withdrawn. The Office action mailed on March 3, 2011 will be designated as a non-final Office action. Since the finality is being withdrawn, any amendment filed in response to the Office action of March 3, 2011 will be treated as a 37 CFR § 1.111 amendment.

The application is being forwarded to the examiner via the Supervisory Patent Examiner of the Art Unit awaiting the applicant's response to the outstanding Office action mailed on March 3, 2011. Any inquiry regarding this decision should be directed to Henry C. Yuen, Special Programs Examiner, at (571) 272-4856.

PETITION GRANTED

Sharon Gibson, Director
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

MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO, IL 60661

MAILED

SEP 14 2010

OFFICE OF PETITIONS

In re Application of
Chengfuh Jeffrey Tang, et al.
Application No. 11/130,481
Filed: May 17, 2005
Attorney Docket No. 16502US01

DECISION ON PETITION
UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition under 37 CFR 1.78(a)(3), filed August 2, 2010, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to the prior-filed nonprovisional application set forth in the concurrently filed amendment.

The petition is **DISMISSED.**

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition does not comply with item (1).

The benefit claim is improper because there is not copendency between the instant application filed May 17, 2005 and application serial number 09/437,209 which issued February 13, 2001.

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 matter may 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.

/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

LAW OFFICE OF CHARLES E. KRUEGER
P.O. BOX 5607
WALNUT CREEK CA 94596-1607

MAILED

OCT 18 2010

OFFICE OF PETITIONS

In re Application of	:	
Singla et al.	:	
Application No. 11/130,700	:	DECISION ON PETITION
Filed: May 16, 2005	:	
Attorney Docket No. 002-55: CSN 10029	:	

This is a decision on the 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 September 21, 2010, as required by the Notice of Allowance and Fee(s) Due mailed June 21, 2010. Accordingly, the date of abandonment of this application is September 22, 2010. A Notice of Abandonment was mailed October 7, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,510.00 and the publication fee of $300.00,(2) the petition fee of $1,620.00; and (3) a proper statement of unintentional delay.

The address given on the petition differs from the address of record. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

This application is being referred to the Office of Data Management for processing into a patent.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: CHARLES E. KRUEGER
2121 N. CLAIFORNIA BLVD. SUITE 290
WALNUT CREEK, CA

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): 11/130,716	Patent Number (if applicable):
First Named Inventor: IWATA	Title of Invention: Electro-chargeable fiber, nonwoven fabric and nonwoven product thereof

APPLICANT/PATENTEE/REEXAMINATION PARTY HEREBY CERTIFIES AND REQUESTS THE FOLLOWING FOR THE ABOVE-IDENTIFIED APPLICATION/PATENT/REEXAMINATION PROCEEDING.

1. FOR PATENT APPLICATIONS AND REEXAMINATION PROCEEDINGS PENDING IN THE USPTO AS OF MARCH 11, 2011, IN WHICH A COMMUNICATION FROM THE USPTO IS SOUGHT TO BE REMAILED:

   a. One or more inventors, an assignee, or a correspondence address (for the application/proceeding) is in an area of Japan affected by the earthquake and/or tsunami of March 11, 2011.

   b. A reply or response to an Office action (final, non-final, or other), a notice of allowance, or other Office notice (hereinafter collectively referred to as "Office communication") is outstanding on March 11, 2011.

   c. The statutory or non-statutory time period set for response has not yet expired.

   d. Withdrawal and reissuance of the Office communication is requested.

   e. It is acknowledged that if this request is not made within sufficient time so that withdrawal and reissuance of the Office communication occur prior to expiration of the statutory or non-statutory time period (as permitted to be extended under 37 CFR 1.136(a), or as extended under 37 CFR 1.550(c) or 1.956), this request may not be granted.

   f. The need for the reissuance of the Office communication was due to the effects of the earthquake and/or tsunami of March 11, 2011.

   g. This request is being sent via EFS-Web or by mail directed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

2. FOR PATENTEES WHO WERE UNABLE TO TIMELY PAY A PATENT MAINTENANCE FEE DURING THE SIX-MONTH GRACE PERIOD FOLLOWING THE WINDOW TO PAY THE MAINTENANCE FEE:

   a. The original window of time to pay the maintenance fee without the surcharge required by 37 CFR 1.20(h) expired on or after March 11, 2011.

   b. The delay in paying the fee was due to the effects of the earthquake and/or tsunami of March 11, 2011.

   c. The USPTO is requested to *sua sponte* waive the surcharge in 37 CFR 1.20(h) for paying a maintenance fee during the six-month grace period following the window to pay the maintenance fee.

   d. This request and payment of the maintenance fee during the six-month grace period following the window to pay the maintenance fee is being mailed to: Director of the United States Patent and Trademark Office, Attn: Maintenance Fee, 2051 Jamieson Avenue, Suite 300, Alexandria, VA 22314; or being transmitted via facsimile to: 571-273-6500.

CERTIFICATION AND REQUEST FOR RELIEF DUE TO EVENTS OF MARCH 11, 2011, IN JAPAN (Page 2 of 2)

3. FOR PATENTEES WHO NEED TO FILE A PETITION TO ACCEPT A DELAYED MAINTENANCE FEE PAYMENT UNDER 37 CFR 1.378(c):

   a. The maintenance fee payment was required to have been paid after March 10, 2011.

   b. A petition under 37 CFR 1.378(c) (using USPTO form PTO/SB/66 – Petition to Accept Unintentionally Delayed Payment of Maintenance Fee in an Expired Patent (37 CFR 1.378(c))) is being promptly filed accompanied by the applicable maintenance fee payment (but not the surcharge under 37 CFR 1.20(i)).

   c. The delay in payment of the maintenance fee was due to the effects of the earthquake and/or tsunami of March 11, 2011.

   d. The USPTO is requested to *sua sponte* waive the surcharge in 37 CFR 1.20(i) for accepting a delayed maintenance fee payment.

   e. It is acknowledged that the petition to accept a delayed maintenance fee payment under 37 CFR 1.378(c) must be filed by March 11, 2012, in order to be entitled to a waiver of the surcharge under 37 CFR 1.20(i).

   f. It is acknowledged that the petition to accept a delayed maintenance fee payment under 37 CFR 1.378(c) must be filed within twenty-four months from the expiration date of the patent. See 35 U.S.C 41(c).

   g. This request and the petition to accept a delayed maintenance fee payment under 37 CFR 1.378(c) is being submitted via EFS-Web or by mail directed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

4. FOR NONPROVISIONAL PATENT APPLICATIONS FILED WITHOUT AN EXECUTED OATH OR DECLARATION OR PAYMENT OF THE BASIC FILING FEE, SEARCH FEE, AND/OR EXAMINATION FEE:

   a. The nonprovisional patent application was filed on or after March 11, 2011, and prior to April 12, 2011.

   b. The late filing of the oath or declaration or the basic filing fee, search fee, or examination fee was due to the effects of the earthquake and/or tsunami of March 11, 2011.

   c. The USPTO is requested to *sua sponte* waive the surcharge set forth in 37 CFR 1.16(f) for the late filing of the oath or declaration or basic filing fee, search fee, and/or examination fee.

   d. This request, together with the executed oath or declaration or the basic filing fee, search fee, or examination fee, as well as the reply to the Notice to File Missing Parts, is being submitted via EFS-Web or by mail directed to Mail Stop Missing Parts, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Signature	Date April 4, 2011
Name (Print/Typed) Douglas P. Mueller	Practitioner Registration Number 30,300

***Note**: Signatures of all the inventors, § 1.41(b) applicants, or assignees of record of the entire interest or their representative(s), or reexamination requesters at the appeal stage are required in accordance with 37 CFR 1.33 and 11.18 Please see 37 CFR 1 4(d) for the form of the signature. If necessary, submit multiple forms for more than one signature, see below*.*

*Total of 1 forms are submitted.

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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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HAMRE, SCHUMANN, MUELLER & LARSON, P.C.
P.O. BOX 2902
MINNEAPOLIS MN 55402-0902

MAILED

APR 06 2011

OFFICE OF PETITIONS

In re Application of	:	
Iwata et al.	:	
Application No. 11/130,716	:	DECISION ON PETITION
Filed: May 17, 2005	:	
Attorney Docket No. 13438.0011US01	:	

This is a decision on the request filed April 4, 2011, seeking relief under the provisions of an announcement by the Under Secretary and Director of the United States Patent and Trademark Office on March 17, 2011, http://www.uspto.gov/patents/announce/japan_relief_2011mar17.pdf, providing relief to inventors and patent owners in areas affected by the earthquake and resulting tsunami of March 11, 2011.

The request for relief is **GRANTED**.

In the above-identified application, an Office action was mailed on January 5, 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 1798 for re-mailing the Office action of January 5, 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
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THE PROCTER & GAMBLE COMPANY
GLOBAL LEGAL DEPARTMENT - IP
SYCAMORE BUILDING - 4TH FLOOR
299 EAST SIXTH STREET
CINCINNATI OH 45202

MAILED

AUG 29 2011

OFFICE OF PETITIONS

In re Application of	:	
Roe et al.	:	
Application No. 11/130,779	:	ON PETITION
Filed: May 17, 2005	:	
Attorney Docket No. 5494CRD2C	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed August 11, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE), along with an Amendment and the $810.00 RCE fee, (2) the petition fee of $1620.00, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center AU 1615 for further processing of the RCE concurrently filed with the instant petition.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 07/01/11

TO SPE OF : ART UNIT 1726

SUBJECT : Request for Certificate of Correction for Appl. No.: 11130850 Patent No.: 7615312

CofC mailroom date: 06/23/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580
[redacted]

Note: **Can figure 9a be Change?**

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

1726

SPE Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 7278981
Issue Date: October 9,2007
Application No. 11130872
Filed: May 17,2005
Attorney Docket No. CV0291USC1

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed October 20,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 20,2011 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7,278,981	2007-10-09	11130872	2005-05-17	402677

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	/Jason Kraus/	Date (YYYY-MM-DD)	2011-10-20
Name	Jason Kraus	Registration Number	42765

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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Young Law Firm, P.C.
4370 Alpine Road, Suite 106
Portola Valley CA 94028

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OFFICE OF PETITIONS

In re Application of :
Jean-Marie Gatto et al. :
Application No. 11/130,937 : DECISION ON PETITION
Filed: May 16, 2005 :
Attorney Docket No. **CYBS5872D3** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 17, 2012, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of July 8, 2011. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is October 9, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $930, and the submission required by 37 CFR 1.114; (2) the petition fee of $1,860; and (3) a proper statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October

10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4584.

This application is being referred to Technology Center AU 3714 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

JoAnne Burke
Petitions Examiner
Office of Petitions

cc: Richard E. Billion
Customer No. 100204
605 US Hwy 169 N.
Suite 300
Plymouth, MN 55441

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KACVINSKY DAISAK PLLC
C/O CPA GLOBAL
P.O. BOX 52050
MINNEAPOLIS MN 55402

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APR 12 2011
OFFICE OF PETITIONS

In re Application of	:	
Hong JIANG	:	
Application No. 11/131,158	:	DECISION ON PETITION
Filed: May 16, 2005	:	
Attorney Docket No. 1020.P19889	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 07, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, June 19, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on September 20, 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 $1,620.00, and (3) a proper statement of unintentional delay. Accordingly, the reply to the non-final Office action of June 19, 2009 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4231.

This application is being referred to Technology Center AU 2621 for appropriate action by the Examiner in the normal course of business on the reply received

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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KELLEY DRYE & WARREN LLP
400 ALTLANTIC STREET 13TH FLOOR
STAMFORD CT 06901

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In re Application of	:	
Pierre Jorgensen	:	
Application No. 11/131,167	:	ON PETITION
Filed: May 17, 2005	:	
Attorney Docket No. WES-101.3(D)	:	

This is a decision on the petition to revive under 37 CFR 1.137(b), filed July 21, 2011.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to timely file an Appeal Brief after a Notice of Appeal had been filed on April 23, 2010. No Appeal Brief having been filed, the application became abandoned on June 24, 2010. The Office mailed a Notice of Abandonment on January 7, 2011.

With the instant petition, applicants paid the petition fee and made the proper statement of unintentional delay, and submitted the required reply in the form of continuation application No. 13/136,042.

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 the continuation application, No. 13/136,042, filed July 21, 2011.

Telephone inquiries concerning this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 08/28/10

TO SPE OF : ART UNIT 3771

SUBJECT : Request for Certificate of Correction for Appl. No.: 11131284 Patent No.: 7575005

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: _____

/Justine Yu/_____ **3771**
SPE **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

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MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

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SEP 27 2010

OFFICE OF PETITIONS

In re Application :
Thangaraj :
Application No. 11/131,484 : PATENT TERM ADJUSTMENT
Filing or 371(c) Date: May 18, 2005 :
Dkt. No.: 15930US02 :

This is in response to the application for patent term adjustment under 37 CFR 1.705(b), filed September 8, 2010.

Applicant submits that the correct patent term adjustment to be indicated on the patent is 967 days, not 690 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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MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

In re Patent No. 7,826,494 :
Issued: November 2, 2010 : DECISION ON PATENT TERM
Application No. 11/131,484 :
Filed: May 18, 2005 :
Atty. Dkt. No.: 15930US02 :

This is a decision on the application for patent term adjustment filed December 29, 2010 requesting that the patent term adjustment be increased from 966 days to 967 days.

The request for reconsideration of the patent term adjustment (PTA) pursuant to 37 CFR 1.705(d) is **DISMISSED**.

The above-identified application matured into U.S. Pat. No. 7,826,484 on November 2, 2010. The patent issued with a patent term adjustment of 966 days. The instant application for patent term adjustment was timely filed in accordance with 37 CFR 1.705(d). Patentee contests the period of adjustment of 276 days accorded pursuant o 37 CFR 1.702(b) and assert that based on petitioners interpretation of law and rules, the correct period of adjustment is 277 days.

Petitioner's arguments have been carefully considered, but are not persuasive. The period of adjustment pursuant to 37 CFR 1.702(b) was properly calculated at 276 days.

35 USC 154(b)(1)(B) states in relevant part:

> Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including — (i) any time consumed by continued examination of the application requested by the applicant under section 132(b).

37 CFR 1.702(b) states in relevant part:

> Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application, but not including: (1) Any time consumed by continued examination of the application under 35 U.S.C. 132(b).

37 CFR 1.703(b) states in relevant part:

> The period of adjustment under § 1.702(b) is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the sum of the following periods: (1) The number of days, if any, in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued.

Accordingly, in the instant matter, and in compliance with the provisions of law and rules set forth above, the period of adjustment under § 1.702(b) began on May 19, 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 ended November 2, 2010, the date that the patent issued, said period totalling 898 days.

However, in accordance with 35 USC 154(b)(1)(B)(i), 37 CFR 1.702(b)(1), and 37 CFR 1.703(b)(1), the period of adjustment pursuant to § 1.702(b) does not any time consumed by continued examination, or, beginning on and including February 19, 2009, the date that the request for continued examination was filed, until November 2, 2010, the date that the patent issued, said period totalling 622 days.

Thus, the period of adjustment pursuant to 37 CFR 1.703(b) of 898 days does not include the continued examination period of 622 days, said net yielding 276 days (898 days – 622 days).

In view thereof, no adjustment to the patent term will be made.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

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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GLENN PATENT GROUP
3475 EDISON WAY, SUITE L
MENLO PARK CA 94025

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In re Application of	:	
SHENNIB, Adnan	:	
Application No. 11/131,574	:	DECISION ON PETITION
Filed: May 17, 2005	:	TO WITHDRAW
Attorney Docket No. **SHEN0008**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 06, 2011.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request was signed by Michael A. Glenn on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the new address of record indicated below.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4231.

/Michelle R. Eason/
Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **ADNAN SHENNIB/CARDIOVU, INC.**
4101-F #111 DUBLIN BLVD.
DUBLIN, CA 94568

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Christopher M. Goff (27839)
ARMSTRONG TEASDALE LLP
7700 Forsyth Boulevard
Suite 1800
St. Louis MO 63105

In re Patent No. 7,681,756	:	DECISION ON REQUEST
Baer et al.	:	FOR
Issue Date: March 23, 2010	:	RECONSIDERATION OF
Application No. 11/131,595	:	PATENT TERM ADJUSTMENT
Filed: May 18, 2005	:	
Atty Docket No. 16517.1	:	
(27839-2469)	:	

This is a decision on the petition pursuant to 37 C.F.R. 1.705(d), filed on May 19, 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 eight hundred and thirty-nine (839) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **DISMISSED**.

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.

Application No. 11/131,595 matured into U.S. patent No. 7,681,756 on March 23, 2010, with a patent term adjustment of 782 days.

Patentee has indicated that this patent is not subject to a terminal disclaimer.[1]

Examination delay totals 794 days (94 + 700).

[1] Petition, page 3.

Applicant delay totals 12 days.

The over three years period is 478 days, due to the RCE cut off.

The Office agrees that the overlap is 421 days[2] (May 19, 2008 - July 13, 2009).

The period of exclusion due to appellate review is 700 days.

The B-delay is zero (478 days over three years minus 700 excluded days minus the overlap of 421 days) days.

It follows that the patent term adjustment is 782 (794 examination delay plus zero B-delay minus 12 applicant delay) days, not 839 days.

The Office acknowledges submission of the $200.00 fee set forth in 37 C.F.R. § 1.18(e). No additional fees are required.

As the patent issued with the correct patent term adjustment, a certificate of correction is not 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,[3] hand-delivery,[4] or facsimile.[5] Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web.[6]

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3225.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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[2] Id. at 3.
[3] Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
[4] Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
[5] (571) 273-8300 - please note this is a central facsimile number.
[6] https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html

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SUITE 1100
WASHINGTON DC 20005

In re Application of	:	
Ernest Y. Chuang et al	:	
Application No. 11/131,601	:	DECISION ON PETITION
Filed: May 17, 2005	:	TO WITHDRAW
Attorney Docket No. 00765.34.0201	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed July 19, 2011.

The request is **APPROVED**.

A review of the file record indicates that Christopher B. Eide: (1) does not have power of attorney in this patent application; and (2) has been employed or otherwise engaged in the proceedings in this patent application. In view of the present decision, Christopher B. Eide has been withdrawn from the present application and may not prepare or submit papers under 37 C.F.R. § 1.34, or correspond in any manner in this application unless appointed in an acceptable power of attorney under 37 C.F.R. § 1.32(b).

Telephone inquires concerning this decision should be directed to Irvin Dingle at 571-272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Christopher B. Eide
Morrison & Foerster LLP
755 Page Mill Road
Palo Alto, CA 94304-1018

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DAVID LEWIS
1250 AVIATION AVE., SUITE 200B
SAN JOSE CA 95110

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In re Application of :
Michael Fiske :
Application No. 11/131,652 :
Filed: May 17, 2005 :
Attorney Docket No. 4-16 :

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 **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

This application became abandoned for failure to timely submit the issue and publication fees, as required by the Notice of Allowance and Fee (s) Due, which was mailed June 24, 2010. The Notice of Allowance and Fee (s) Due and the Notice of Allowability set a three (3) month statutory period for reply. Extensions of time were not available under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on September 25, 2010.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item(s) (1).

As to item (1), although petitioner has submitted a request for continued examination (RCE) and information disclosure statements (IDS), the application was held abandoned for failure to pay the issue and publication fees. Thus, the required reply also must include the submission of the issue fee. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must include payment of the issue fee or any outstanding balance. In an application, abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee. 35 U.S.C. 41(a)(7) and 151 each require payment of the issue fee as a condition of reviving an application abandoned or patent lapsed for failure to pay the issue fee. See MPEP 711.03(c).

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By internet: EFS-Web
www.uspto.gov/ebc/efs_help.html
(for help using EFS-Web call the
Patent Electronic Business Center
at (866) 217-9197)

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3215.

Charlema Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DAVID LEWIS
1250 AVIATION AVE., SUITE 200B
SAN JOSE CA 95110

MAILED
JAN 24 2011
OFFICE OF PETITIONS

In re Application of :
Fiske :
Application No. 11/131,652 :
Filed: May 17, 2005 :
Attorney Docket No. 4-16 :

ON PETITION

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed November 30, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely submit the issue and publication fees, as required by the Notice of Allowance and Fee (s) Due, which was mailed June 24, 2010. The Notice of Allowance and Fee (s) Due and the Notice of Allowability set a three (3) month statutory period for reply. Extensions of time were not available under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on September 25, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue and publication fees of $1055, RCE and an Information Disclosure Statement (IDS), amendment, (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

Petitioner is advised that the issue fee paid on renewed petition 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 the undersigned at (571) 272-3215.

[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 2431 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the submission in accordance with 37 CFR 1.114.

Charlema Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED
AUG 25 2011
OFFICE OF PETITIONS

STURM & FIX LLP
206 SIXTH AVENUE
SUITE 1213
DES MOINES IA 50309-4076

In re Application of	:	
Gaalswyk	:	
Application No. 11/131,854	:	DECISION ON PETITION
Filed: May 18, 2005	:	
Attorney Docket No. 3-5262-024	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 17, 2011, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before August 16, 2011, as required by the Notice of Allowance and Fee(s) Due, mailed May 16, 2011. Accordingly, the date of abandonment of this application is August 17, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $755.00 and the publication fee of $300.00, (2) the petition fee of $810.00; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3230.

This application is being referred to the Office of Data Management for processing into a patent.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BRUCE M. WILLIAMS
100 NE 8TH AVE. #408
GAINESVILLE FL 32601

MAILED
JAN 04 2012
OFFICE OF PETITIONS

In re Application of Bruce M. Williams Application No. 11/131,888 Filed: May 18, 2005 Title: Use Of Stem Cells To Cure Genetic Diseases In Humans Cure For Sickle Cell Anemia	: : : : :	DECISION ON PETITION

This is a decision on the petitions, filed October 17, 2011, under 37 CFR 1.181 requesting withdrawal of the holding of abandonment mailed September 11, 2009, and under 37 CFR 1.137(a) to revive the above-identified application.

The petition under 37 CFR 1.181 is **DISMISSED**.

This application became abandoned for failure to reply in a proper and timely manner to the Notice of Non-Compliant Amendment (Notice) mailed January 30, 2009. Accordingly, the date of abandonment of this application is March 2, 2009. A Notice of Abandonment was mailed September 11, 2009.

Petitioner asserts the Notice of Abandonment mailed September 11, 2009 be withdrawn since "The USPTO never sent the applicant a copy of the dismissal decision for the applicant to respond to." Further, petitioner asserts that "the office response could have bee[n] sent to George R. Reardon attorney at law."

A review of USPTO records reveals that A Notice of Non-Compliant Amendment was mailed to the address of record January 30, 2009 and a Notice Requiring Extension of Time Fee was mailed to the address of record March 16, 2009 in response to applicant's amendments filed July 17, 2008 and January 30, 2009 respectively. The Notices clearly state that an extension of time and fees were required. Therefore, the date of abandonment of the above-identified application was March 2, 2009 since no extensions of time were obtained.

Therefore, petitioner's July 17, 2008 and March 16, 2009 amendments were untimely as noted in both Notices mailed to applicant.

711.02 Failure To Take Required Action During Statutory Period [R-3]

37 CFR 1.135(a) specifies that an application becomes abandoned if applicant "fails to reply" to an office action within the fixed statutory period. This failure may result either from (A) failure to reply within the statutory period, or (B) insufficiency of reply, i.e., failure to file a "complete and proper reply, as the condition of the case may require" within the statutory period (37 CFR 1.135(b)).

When an amendment is filed after the expiration of the statutory period, the application is abandoned and the remedy is to petition to revive it. The examiner should notify the applicant or attorney at once that the application has been abandoned by using Notice of Abandonment form PTOL-1432. The proper boxes on the form should be checked and the blanks for the dates of the proposed amendment and the Office action completed. The late amendment is **>placed in< the file wrapper but not formally entered. **See MPEP § 714.17**.

As noted above, applicant's responses were untimely since no extensions of time were obtained. Therefore, the above-identified application abandoned March 2, 2009.

403 Correspondence - With Whom Held [R-5]

Additionally, 37 CFR 1.33 Correspondence respecting patent applications, reexamination proceedings, and other proceedings states:

(a) **>*Correspondence address and daytime telephone number*. When filing an application, a correspondence address must be set forth in either an application data sheet (§ 1.76), or elsewhere, in a clearly identifiable manner, in any paper submitted with an application filing. If no correspondence address is specified, the Office may treat the mailing address of the first named inventor (if provided, see §§ 1.76(b)(1) and 1.63(c)(2)) as the correspondence address. The Office will direct all notices, official letters, and other communications relating to the application to the correspondence address. **The Office will not engage in double correspondence with an applicant and a patent practitioner**, or with more than one patent practitioner except as deemed necessary by the Director. If more than one correspondence address is specified in a single document, the Office will select one of the specified addresses for use as the correspondence address and, if given, will select the address associated with a Customer Number over a typed correspondence address. For the party to whom correspondence is to be addressed, a daytime telephone number should be supplied in a clearly identifiable manner and may be changed by any party who may change the correspondence address.

Currently, there is no power of attorney designated in the above-identified application.

A review of USPTO records reveals that the non-final Office action and the two Notices of Non-Compliant Amendment were sent to the Correspondence Address of Record.

Therefore, in view of the above, the petition to withdraw the holding of abandonment is dismissed.

The petition under 37 CFR 1.137(a) is **DISMISSED**.

The rules and statutory provisions governing the operations of the U.S. Patent and Trademark Office require payment of a fee on filing each petition to revive an abandoned application for patent based on unavoidable delay or to accept an unavoidably delayed payment of a fee for issuing a patent. In this instance, the fee required by law is $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 not accompanied by payment of the required fee. No consideration on the merits can be given that petition until the required fee is received.

A review of USPTO records reveals that a petition under 37 CFR 1.137(b) submitted by petitioner October 19, 2009 was dismissed December 11, 2009 due to nonpayment of the required petition fee.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITIONS
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By 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 Joan Olszewski at (571) 272-7751.

/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

Perkins Coie, LLP
P.O. Box 1247
Seattle WA 98111

MAILED

SEP 13 2010

OFFICE OF PETITIONS

In re Application of	:	
Martin T. King et al.	:	
Application No. 11/131,945	:	DECISION ON PETITION
Filed: May 17, 2005	:	
Attorney Docket No. **435188052US1**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 10, 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 and to submit corrected formal drawings on or before February 01, 2010, as required by the Notice of Allowance and Fee(s) Due and the Notice of Allowability, mailed October 30, 2009. Accordingly, the date of abandonment of this application is February 02, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the corrected formal drawings , (2) the petition fee of $810; and (3) a proper statement of unintentional delay. Accordingly, the failure to timely submit corrected formal drawings as required 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.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at (571) 272-2783.

This application is being referred to the Office of Data Management for processing into a patent.

Ramesh Krishnamurthy

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

VEDDER PRICE PC
1401 I STREET, NW
SUITE 1100
WASHINGTON DC 20005

MAILED
AUG 03 2011
OFFICE OF PETITIONS

In re Application of
Ernest Y. Chuang et al
Application No. 11/132,002
Filed: May 17, 2005
Attorney Docket No. 00765.34.0202

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed July 19, 2011.

The request is **APPROVED**.

A review of the file record indicates that Christopher B. Eide: (1) does not have power of attorney in this patent application; and (2) has been employed or otherwise engaged in the proceedings in this patent application. In view of the present decision, Christopher B. Eide has been withdrawn from the present application and may not prepare or submit papers under 37 C.F.R. § 1.34, or correspond in any manner in this application unless appointed in an acceptable power of attorney under 37 C.F.R. § 1.32(b).

Telephone inquires concerning this decision should be directed to Irvin Dingle at 571-272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Christopher B. Eide
Morrison & Foerster LLP
755 Page Mill Road
Palo Alto, CA 94304-1018

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
JUL 22 2011
OFFICE OF PETITIONS

Paper No.

MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

In re Patent No. 7,836,365 :
Barbera et al. :
Application No. 11/132,673 : LETTER REGARDING
Issue Date: November 16, 2010 : PATENT TERM ADJUSTMENT
Filed: May 19, 2005 :
Atty Docket No. 13609US03 :

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 January 10, 2011, requesting that the patent term adjustment determination for the above-identified patent be changed from nine hundred and seventy-six (976) days to one thousand and forty-two (1042) 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 seventy-five (975) days is **GRANTED to the extent indicated herein.**

BACKGROUND

On November 16, 2010, the above-identified application matured into US Patent No. 7,836,365 with a patent term adjustment of 976 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.

The record supports a conclusion that this patent is not subject to a terminal disclaimer.

At issuance, Patentee was accorded 828 (911 - 83) days of B-delay. Patentee maintains entitlement to a period of adjustment due to the Three Year Delay by the Office, pursuant to 37 CFR § 1.703(b), of 894 (911 - 17) days. In other words, Patentee argues 17 days, not 83 days, should have been excluded from B-delay for time consumed by appellate review.

RELEVANT STATUTE AND REGULATIONS

The statutory basis for calculation of "B delay" is 35 U.S.C. 154(b)(1)(B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY, which provides that:

Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including —

> (i) any time consumed by continued examination of the application requested by the applicant under section 132(b);
> (ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or
> (iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued.

The implementing regulation, 37 C.F.R. § 1.702(b) provides that:

> Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application, but not including:
> (1) Any time consumed by continued examination of the application under 35 U.S.C. 132(b);
> (2) Any time consumed by an interference proceeding under 35 U.S.C. 135(a);
> (3) Any time consumed by the imposition of a secrecy order under 35 U.S.C. 181;
> (4) Any time consumed by review by the Board of Patent Appeals and Interferences or a Federal court; or
> (5) Any delay in the processing of the application by the Office that was requested by the applicant.

OPINION

At issue is the language "[a]ny time consumed by review by the Board of Patent Appeals and Interferences" of 37 C.F.R. § 1.702(b).

A notice of appeal was filed on May 15, 2009, and a non-final Office action was mailed on August 6, 2009. The 84 days of the over three year period consumed by appellate review, beginning on May 15, 2009 and ending on August 6, 2009, is not included in the B delay. See 35 U.S.C. § 154(b)(1)(B)(ii).

Patentee argues that the excluded period should total 17 days, and should run from the filing of the notice of appeal on May 15, 2009 until the mailing of a Notice of Panel Decision from Pre-Appeal Brief Review on June 1, 2009.[1, 2]

Patentee's argument has been considered, but not found persuasive. The period consumed by appellate review, whether successful or not, is excluded from the calculation of B delay. See 35 U.S.C. 154(b)(1)(B)(ii). An appeal to the Board of Patent Appeals and Interferences commences with the filing of a notice of appeal. See 35 U.S.C. 134(a). Generally, an appeal to the Board of Patent Appeals and Interferences ends with either 1) a Board decision, 2) the examiner reopening prosecution and issuing another Office action, or 3) the applicant filing a request to withdraw the appeal and reopen prosecution (e.g. the filing of a request for continued examination). In this instance the period consumed by appellate review is 84 days, beginning on May 15, 2009, the date of filing of the notice of appeal and ending on August 6, 2009, the subsequent date of the mailing of a non-final Office action. Put another way, the excluded period terminated with the mailing of the non-final Office action of August 6, 2009, and not the mailing of a Notice of Panel Decision from Pre-Appeal Brief Review on June 1, 2009.

---

[1] Petition, page 3.

[2] It is noted in passing that this period totals 18 days, not 17 days. Patentee has arrived at 17 days because he has erroneously included the date on which the notice of appeal was filed in the period of B-delay. The filing of the notice of appeal is the first day of the excluded appellate period. As such, the last day of B-delay that is prior to the commencement of the appellate excluded period that results from the filing of the notice of appeal on May 15, 2009 is May 14, 2009, and not May 15, 2009.

It is noted that the Office issued a Notice of proposed rulemaking entitled *Revision of Patent Term Extension and Adjustment Provisions Relating to Appellate Review and Information Disclosure Statements*, 76 FR 18990 (April 6, 2011). To the extent that the final rule on *Revision of Patent Term Extension and Adjustment Provisions Relating to Appellate Review* revises the interpretation of appellate review applied in this decision, Patentee is given **one (1) month or thirty (30) days**, whichever is longer, from the date of the final rule to file a request for reconsideration. No extensions of time will be granted under § 1.136.

It is further noted that the Office improperly calculated the period of appellate exclusion: the period of B delay is 827 (911 days over three years minus 84 excluded) days, and not 828 days, as currently appears on the PTA Calculations. Accordingly, the 828 adjustment (911 over three years minus 83) has been removed, and an 827 (911 minus 84) day adjustment has been entered.

CONCLUSION

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.

Any subsequent filing pertaining to this matter should indicate that the attorney handling this matter is Paul Shanoski, and may be submitted by mail,[3] hand-delivery,[4] or facsimile.[5] Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web.[6]

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

---

[3] Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
[4] Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
[5] (571) 273-8300: please note this is a central facsimile number.
[6] https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html

Court for the District of Columbia within 180 days after the grant of the patent.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **nine hundred and seventy-five (975) days.**

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3225.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,836,365 B2

DATED : **November 16, 2010** **DRAFT**

INVENTOR(S) : Barbera 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 976 days

Delete the phrase "by 976 days" and insert – by 975 days--

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE 12-23-10

TO SPE OF : ART UNIT 3664

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/132886 Patent No.: 7840330

CofC mailroom date: 12-16-10

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Certificates of Correction Branch

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: DE..10254402.6 was not submitted in an IDS (it appears).
All other correction requests are Valid.

Romine Mancho
Primary Examiner.
AU 3664

KHOI H. TRAN
SUPERVISORY PATENT EXAMINER

SPE

3664
Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12-23-10

TO SPE OF : ART UNIT 3664

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/132886 Patent No.: 7840330

CofC mailroom date: 12-16-10

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Certificates of Correction Branch

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.

- [x] **Approved** — All changes apply.
- [ ] **Approved In Part** — Specify below which changes do not apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: Please disregard the previous response to certificate of correction.

Please consider the current response to certificate of correction.

Ronnie Mancho
Primary Examiner
AU 3664.

/Khoi Tran/ SPE 3664

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

CANTOR COLBURN LLP
20 CHURCH STREET
22ND FLOOR
HARTFORD, CT 06103

MAILED
JAN 26 2011
OFFICE OF PETITIONS

In re Application of :
Yoshihide Ohue, et al. :
Application No.: 11/133,019 : ON PETITION
Filed: May 19, 2005 :
Attorney Docket No.: YKI0174US :

This is a decision on the petition, filed January 25, 2011, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on January 14, 2011, cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2629 for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement (IDS).

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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GLENN PATENT GROUP
3475 EDISON WAY, SUITE L
MENLO PARK CA 94025

In re Application of
Fu Chiung CHONG et al. :
Application No. 11/133,021 :
Filed: May 18, 2005 : NOTICE UNDER 37 CFR. 1.28(c)
Patent No. 7,382,142 :
Issue Date: June 03, 2008 :
Attorney Docket No. NNEX0001CIP3

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to Michelle R. Eason at (571) 272-4231.

Thurman K. Page
Petitions Examiner
Office of Petitions

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HEWLETT-PACKARD COMPANY
INTELLECTUAL PROPERTY ADMINISTRATION
3404 E. HARMONY ROAD
MAIL STOP 35
FORT COLLINS, CO 80528

In re Application of Peter Furlong, et al. Application No. 11/133,039 Filed: May 18, 2005 Attorney Docket No.: 201004649-2	: : : : :	ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed March 10, 2011.

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue and publication fees on or before February 7, 2011, as required by the Notice of Allowance and Fee(s) Due mailed November 5, 2010. A Notice of Abandonment was subsequently mailed on February 23, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the $1,510 issue fee and $300 publication fee; (2) the petition fee of $1,620; and (3) an adequate statement of unintentional delay.

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

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JAN 24 2011
OFFICE OF PETITIONS

Agilent Technologies, Inc. in care of:
CPA Global
P. O. Box 52050
Minneapolis MN 55402

In re Application of
Robert KINCAID
Application No. 11/133,120
Filed: May 19, 2005
Attorney Docket No. 10031263-01-US

DECISION ON PETITION
TO EXPUNGE

This is a decision on the petition to expunge a document, filed July 15, 2010, that is being treated under the provisions of 37 CFR 1.59(b).

The petition to expunge is **GRANTED**.

The petitioner is requesting the expungement of "all materials electronically filed in the above-referenced application at 20:22:44 on July 14, 2010 under EFS ID 8018695."

A review of the Office records of the instant application indicates that the documents that are being sought to be expunged were submitted via Office's Electronic Filing System (EFS) on July 14, 2010. As stated in the instant petition, "serial number on the submitted materials (i.e., 11/607,786, which is different to the serial number above), the materials were inadvertently submitted in the incorrect application." However, as indicated by the EFS Acknowledgement Receipt identifiable by EFS ID 8018695, these were submitted for consideration in the instant application.

As set forth in MPEP § 724.05, paragraph III, the granting of a petition to expunge information submitted in an incorrect application will be governed by "the factors enumerated in paragraph II of this section in regard to the unintentional submission of information". The instant petition satisfies the relevant factors from those listed in MPEP § 724.05, paragraph II.

In view of the above, the petition to expunge has been **GRANTED**.

The documents that were requested to be removed have been expunged from the instant application. As of mailing date of this decision, the corresponding images of the expunged

documents in IFW have been "closed" thereby removing them from a list of publicly available documents associated with this application.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4914.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

CC: AGILENT TECHNOLOGIES, INC.
Legal Department, DL429 Intellectual Property Administration
P.O. Box 7599
Loveland, CO 80537-0599

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PATRICK D. KELLY
#403
11939 MANCHESTER
ST. LOUIS MO 63131

MAILED
AUG 05 2010
OFFICE OF PETITIONS

In re Application of	:	
Dennis L. GIERHART, et al	:	
Application No. 11/133,125	:	DECISION ON PETITION
Filed: May 18, 2005	:	
Docket No. ZX-LOZN-1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 18, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, April 17, 2008, which set a shortened statutory period for reply of **three (3) months**. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on July 18, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

All other inquiries should be directed to the Technology Center at (571) 272-1600.

This application is being referred to Technology Center AU 1612 for appropriate action by the Examiner in the normal course of business.

/dcg/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

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PERKINS COIE LLP/MSFT
P. O. BOX 1247
SEATTLE, WA 98111-1247

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In re Application of :
Alexandru D. Burst, et al. :
Application No. 11/133,162 : ON PETITION
Filed: May 18, 2005 :
Attorney Docket No. 418268067US :

This is in response to the communication, filed March 28, 2011, to revive the above-identified application, which is being treated as a petition to withdraw the holding of abandonment.

The petition is **DISMISSED**.

On August 5, 2010, the Office mailed a final Office action, which set a three month shortened statutory period to reply. A reply to the Office action was received on November 5, 2010. On January 31, 2011 the Office mailed an advisory action which continued to run from the date of the original Office action. The application became abandoned on November 6, 2010 for failure to submit a timely response to the August 5, 2010 Office action. On March 31, 2011, the Office mailed a Notice of Abandonment.

DISCUSSION OF PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

A review of the record discloses that petitioner submitted a reply to the final Office action mailed August 5, 2010, however the amendment was considered improper and not entered by the Examiner. An advisory action was mailed on January 31, 2011 informing petitioner of the informalities of the after final amendment previously filed. Petitioner has until February 5 to filed a proper reply to the final rejection as his time was still running from the mailing of the original date of August 5, 2010 final rejection. Since petitioner did not file a proper amendment the application was properly abandoned.

Therefore, the petition to withdraw the holding of abandonment is **dismissed** and cannot be granted at the present time.

ALTERNATIVE VENUE

Petitioner is strongly encouraged to consider filing a petition under 37 CFR 1.137(b) to revive an unintentionally abandoned application instead of filing a renewed petition under 37 CFR 1.181 or a petition under 37 CFR 1.137(a).

A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

> (1) The reply required to the outstanding Office action or notice, unless previously filed. In nonprovisional utility application abandoned for failure to respond to a non-final Office action, the required reply may be met by filing either (A) an argument or amendment under 37 CFR 1.111 or (B) a continuing application under 37 CFR 1.53(b).
>
> (2) The petition fee as set forth in 37 CFR 1.17(m), **$1620.00 for large entity**;
>
> (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

A form for filing a petition to revive an unintentionally abandoned application accompanies this decision for petitioner's convenience. If petitioner desires to file a petition under 37 CFR 1.137(b) instead of filing a request for reconsideration, petitioner must complete the enclosed petition form (PTO/SB/64) and pay the $1620.00 petition fee.

Any request for reconsideration of this decision should be submitted within **TWO (2) MONTHS** from the mail date of this decision and be entitled "Renewed Petition to Withdraw the Holding of Abandonment under 37 CFR 1.181." *See* 37 CFR 1.181(f).

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By FAX:	(571) 273-8300 Attn: Office of Petitions
By hand:	Customer Service Window Randolph Building 401 Dulany Street Alexandria, VA 22314

Telephone inquiries related to this decision may be directed to the April M. Wise at (571) 272-1642.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

Enclosures: Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b); Form PTO/SB/64, Privacy Act Statement;

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PERKINS COIE LLP/MSFT
P. O. BOX 1247
SEATTLE, WA 98111-1247

In re Application of
Alexandru D. Burst, et al.
Application No. 11/133,162
Filed: May 18, 2005
Attorney Docket No. 418268068US

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 9, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of August 5, 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 November 6, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810, and the submission required by 37 CFR 1.114; (2) the petition fee of $1860; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 2172 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

April M. Wise
Petitions Examiner
Office of Petitions

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FITZPATRICK CELLA HARPER & SCINTO
1290 Avenue of the Americas
NEW YORK, NY 10104-3800

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FEB 28 2011

OFFICE OF PETITIONS

In re Application of :
Toshiaki Igarashi :
Application No. 11/133,188 : ON PETITION
Filed: May 20, 2005 :
Attorney Docket No. 03560.002808.1 :

This is a decision on the petition filed June 1, 2010, which is being treated as a petition under 37 CFR 1.181 (no fee), to withdraw the holding of abandonment in the above-identified application.

The application was held abandoned for failure to file a proper response to the final Office action mailed July 1, 2009. A Notice of Abandonment was mailed on February 5, 2010.

Petitioner argues "...while it is acknowledged that a paper filed in response to a final Office Action is only deemed fully to meet the due date for response if the paper meets all requirements in the final Office Action, it is also noted that that Terminal Disclaimer was identical in form to literally dozens filed by Applicant's attorneys in past years, which dozens of Terminal Disclaimers were approved and accepted by the Office. Applicant is aware of no change in Office rules that would have provided notice to the public of any reason that Terminal Disclaimer form would become unacceptable in the eyes of the Office. Thus, it is not clearly seen why Applicant or his attorneys should have expected that the filing of that Terminal Disclaimer would not be accepted by the Office as a full response to the Office Action of July 1, 2009 (which raised no other issue than a double-patenting rejection)."

A review of the record shows that the Terminal Disclaimer filed on November 19, 2009, was not accepted since petitioner's version of a Terminal Disclaimer failed to "include a provision that any patent granted on that application or any patent subject to the reexamination proceeding shall be enforceable only for and during such period that said patent is commonly owned with the application or patent which formed the basis for the judicially created double patenting[1]."

In view of the above, since the response filed on November 19, 2009, was not fully responsive to the Office action mailed July 1, 2009, in that petitioner's Terminal Disclaimer failed to contain the complete language that is a part of the original form (PTO/SB/26), this application was properly held abandoned; and therefore, the present petition is **dismissed**.

[1] See 37 CFR 1.321(c)(3)

Petitioner further states that "as of this date, not been properly advised by the PTO either (1) that that Terminal Disclaimer was improper, or (2) in what manner it was improper." It should be noted that petitioner was put on notice that the Terminal Disclaimer was not accepted in a voice mail message left on January 22, 2010[2]. In any event, the application was properly held abandoned as a proper terminal disclaimer was not filed.

ALTERNATIVE VENUE

Petitioner is encouraged to consider filing a petition under 37 CFR 1.137(b) to revive an unintentionally abandoned application.

A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed.

(2) The petition fee as set forth in 37 CFR 1.17(m), $1,620 for a small entity;

(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

A form for filing a petition to revive an unintentionally abandoned application can be found on the Web site at www.uspto.gov form (PTO/SB/64).

Any request for reconsideration of this decision should be submitted within **two (2) months** from the mail date of this decision and be entitled as a "Renewed Petition."

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By fax: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

[2] See the Notice of Abandonment mailed on February 5, 2010.

UNITED STATES PATENT AND TRADEMARK OFFICE

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FITZPATRICK CELLA HARPER & SCINTO
1290 Avenue of the Americas
NEW YORK, NY 10104-3800

MAILED
MAY 05 2011
OFFICE OF PETITIONS

In re Application of	:	
Toshiaki Igarashi	:	
Application No. 11/133,188	:	ON PETITION
Filed: May 20, 2005	:	
Attorney Docket No. 03560.002808.1	:	

This is a decision on the renewed petition under 37 CFR 1.137(b) filed April 15, 2011.

In response to the decision mailed on February 28, 2011, petitioner submits the present renewed petition on April 15, 2011.

Since the petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a terminal disclaimer under 37 CFR 1.321; (2) the petition fee of $1,620; and (3) a proper statement of unintentional delay, the petition is **GRANTED**.

This application file is being referred to Technology Center Art Unit 2434 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: —

DATE : 7/13/10

TO SPE OF : ART UNIT 2454

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/133407 Patent No.: 7707240 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: _____

/Nathan Flynn/
Nathan J. Flynn
SPE 2454/

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KOLISCH HARTWELL, P.C.
200 PACIFIC BUILDING
520 SW YAMHILL STREET
PORTLAND, OR 97204

MAILED
NOV 18 2010
OFFICE OF PETITIONS

In re Application of	:	
Cooley et al.	:	
Application No. 11/133,638	:	ON PETITION
Filed: May 20, 2005	:	
Attorney Docket No. CFC302	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 25, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, July 23, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on October 24, 2009. A Notice of Abandonment was mailed February 18, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $810 , and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6059.

This application is being referred to Technology Center 3689 for further examination on the merits.

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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Decision Date : June 16,2011

In re Application of :

Fenando Ubidia

Application No : 11133650

Filed : 20-May-2005

Attorney Docket No : 006943.01486

DECISION ON PETITION

UNDER CFR 1.313(c)(3)

This is an electronic decision on the petition under 37 CFR 1.313(c)(3), filed June 16,2011 ,to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

Petitioner requests that the above-identified application be withdrawn from issue for express abandonment. See 37 CFR 1.313(c)(3).

The application is hereby withdrawn from issue, and the abandonment is hereby recognized.

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/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	11133650
Filing Date	20-May-2005
First Named Inventor	Fenando Ubidia
Art Unit	3754
Examiner Name	J JACYNA
Attorney Docket Number	006943.01486
Title	INTEGRATED BEVERAGE AND ICE DISPENSER ASSEMBLY

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)).

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 M. Swickhamer/
Name	Christopher M. Swickhamer
Registration Number	59853

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DEC 06 2011
OFFICE OF PETITIONS

HAHN LOESER & PARKS, LLP
One GOJO Plaza
Suite 300
AKRON OH 44311-1076

In re Patent No. 8,002,236	:
Meyers	: DECISION ON REQUEST FOR
Issue Date: August 23, 2011	: RECONSIDERATION OF
Application No. 11/133,662	: PATENT TERM ADJUSTMENT
Filed: May 20, 2005	: AND INTENT TO ISSUE A
Attorney Docket No.	: CERTIFICATE OF CORRECTION
207234.00001	:
Title: Remotely Controlled	:
Lockout Device	:

This is a decision on the petition filed on October 24, 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 seven hundred sixty-five (765) days.

Preliminarily, patentee is reminded that 35 U.S.C. 154(b) provides for patent term adjustment for examination delay. Pursuant to 35 U.S.C. 154(b)(3)(B) and implementing regulation 37 C.F.R. § 1.705, an applicant shall receive an initial determination of patent term adjustment with the mailing of the Notice of Allowance and shall be given one opportunity to request reconsideration of that determination by way of filing of an application for patent term adjustment (and fee for application for patent term adjustment) prior to the payment of the issue fee. Thus, any application for patent term adjustment disputing the initial determination of patent term adjustment at the time of the mailing of the Notice of Allowance filed after payment of the issue fee may be dismissed as untimely filed.

However, in this instance, on April 1, 2011, the Office mailed the initial determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 0 days.

At the time of the mailing of the Notice of Allowance, there was no dispute as to the accuracy of this determination because as of the mailing of the notice of allowance, the undisputed periods of reduction for applicant delay exceeded the period of adjustment for Office delay. As the Office does not set forth negative balances of patent term adjustment, the initial determination of patent term adjustment of 0 days was properly not disputed.

However, upon issuance of the patent, 987 days pursuant to 37 CFR 1.702(b) were entered for Office delay in issuance of the patent in excess of three years to issue the patent respectively. In view thereof, the entry of the periods of reduction for applicant delay before the mailing of the notice of allowance became an issue. Under the circumstances the application for patent term adjustment will not be dismissed as untimely filed, but will be considered on the merits.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED** to the extent indicated.

The period of adjustment to which the patent is entitled under 37 CFR 1.702(a) is 462 days.

It is noted that the 54 day reduction will be removed as Office delay does not accrue when the application is abandoned.

The period of adjustment to which the patent is entitled under 37 CFR 1.702(b) is 987 days.

Patentees dispute the reductions of 684 and 642 for the abandonment of the application. Patentees contend the October 25, 2007 Office action was mailed to the incorrect address. In the alternative, patentees contend the 642 days of delay overlap with the 684 days of delay. Thus, there should be 684 days of delay for the abandonment of the application.

The office is not convinced that the October 25, 2007 was mailed to the incorrect correspondence address. As the July 23, 2007 petition indicated the requested correspondence address would not be entered.

However, a review of the application history shows a reduction of 805 days, is warranted for the abandonment of the application pursuant to 37 CFR § 1.704(c)(3)(ii).

37 CFR 1.704(c) provides that:

> Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:
>
> (3) Abandonment of the application or late payment of the issue fee, in which case the period of adjustment set forth in §1.703 shall be reduced by the number of days, if any, beginning on the date of abandonment or the date after the date the issue fee was due and ending on the earlier of:
> (i) The date of mailing of the decision reviving the application or accepting late payment of the issue fee; or
> (ii) The date that is four months after the date the grantable petition to revive the application or accept late payment of the issue fee was filed.

In this instance the application was held abandoned for the failure to submit a reply to the re-mailed Office action of November 2, 2007. A grantable petition under 37 CFR 1.137(b) was filed on December 17, 2009 and granted on May 24, 2010.

In accordance with 37 CFR 1.704(c)(3), the adjustment is properly reduced by 805 days. The period of reduction commenced February 3, 2008, the date of abandonment, and ended April 17, 2010, the date four months after the date the grantable petition to revive the application was filed. See, 37 CFR 1.704(c)(3)(ii).

In view thereof, the patent is entitled to an overall adjustment of 644 days (462 under 37 CFR 1.702(a) + 987 days under 37 CFR 1.702(b) - 805 days of applicant delay).

The Office will sua sponte issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given one (1) month or thirty (30) days, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The application is being forwarded to the Certificate of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by six hundred forty-four **(644)** days.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Telephone inquiries specific to this matter should be directed to undersigned at (571) 272-3215.

Charlema Grant

Charlema Grant
Attorney Advisor
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 8,002,236 B2

DATED : August 23, 2011 DRAFT

INVENTOR(S) : Meyers

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 123 days

Delete the phrase "by 123 days" and insert – by 644 days--

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 12/27/11

TO SPE OF : ART UNIT 1625

SUBJECT : Request for Certificate of Correction for Appl. No.: 11133678 Patent No.: 7629468

CofC mailroom date: 12/15/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580
You can fax the Directors/SPE response to 571-273-3421

Note: Should the changes be made?

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

☒ **Approved** — **All** changes apply.

☐ **Approved in Part** — Specify below which changes **do not** apply.

☐ **Denied** — State the reasons for denial below.

Comments:

/Janet L. Andres/ — 1625

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

INNOVATION DIVISION
CANTOR FITZGERALD, L.P.
110 EAST 59TH STREET (6TH FLOOR)
NEW YORK NY 10022

MAILED
NOV 15 2010
OFFICE OF PETITIONS

ON PETITION

In re Application of :
Davies et al. :
Application No 11/133,746 :
Filed: May 20, 2005 :
Attorney Docket No. 05-6243 :
For: SYSTEM AND METHOD FOR :
DETERMINING AVAILABILITY OF A :
TRADABLE INSTRUMENT :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 20, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file an appeal brief in response to the Notice of Appeal filed on February 17, 2010. Applicants had an extendable two month period to submit the appeal brief. No extension of time was obtained pursuant to 37 CFR 1.136(a). Accordingly, the date of abandonment of this application is April 18, 2010. A Notice of Abandonment was mailed September 30, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810.00, and the submission required by 37 CFR 1.114; (2) the petition fee of $1620.00; and (3) a proper statement of unintentional delay.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3215.

This application is being referred to Technology Center AU 3691 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Charlema Grant
Petition Attorney
Office of Petitions

cc: Glen R. Farbanish
499 Park Avenue
New York, NY 10022

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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TELEZYGOLOGY, INC.
520 W. ERIE STREET, SUITE 100
CHICAGO IL 60654

MAILED
SEP 30 2011
OFFICE OF PETITIONS

In re Application of	:	
Dickory Rudduck et al.	:	
Application No. 11/133,747	:	DECISION ON PETITION
Filed: May 19, 2005	:	
Attorney Docket No. 112427.136 US1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 19, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed January 10, 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 application became abandoned on April 11, 2011. A Notice of Abandonment was mailed on August 17, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $810, (3) a proper statement of unintentional delay. Accordingly, the amendment is accepted as being unintentionally delayed.

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 September 19, 2011 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to Technology Center AU 3677 for appropriate action by the Examiner in the normal course of business on the reply received September 19, 2011.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Heather A. Kartsounes
3 Grant Square, #122
Hinsdale, IL 60521

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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MAILED
AUG 30 2010
OFFICE OF PETITIONS

Harvard University & Medical School
c/o Wolf, Greenfield & Sacks, P.C.
600 Atlantic Avenue
Boston MA 02210-2206

In re Application
Myers, et al.
Application No. 11/133,789
Filed: May 20, 2005
Dkt. No.: H0824.70002US02

: PATENT TERM ADJUSTMENT

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d)," filed May 7, 2010. This matter is being properly treated pursuant to 37 CFR 1.705(b), the application having been filed prior to issuance of a patent.

Applicant submits that the correct patent term adjustment to be indicated on the patent is 1,418 days, not 1,015 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.

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.
11/133,804	05/19/2005	Tao Jiang	008075-5007-US01	1285

7590 06/09/2011
MORGAN, LEWIS & BOCKIUS LLP (SF)
One Market, Spear Street Tower, Suite 2800
San Francisco, CA 94105

EXAMINER
JONES, DAMERON LEVEST

ART UNIT	PAPER NUMBER
1618	

MAIL DATE	DELIVERY MODE
06/09/2011	PAPER

ACKNOWLEDGEMENT OF REQUEST

Notice of Allowance/Allowability Mailed

The request to print a color drawing reference as the first paragraph in the portion of the specification containing a brief description of the drawings as required by 37 CFR 1.84 and MPEP § 608.02 has been received by the United States Patent and Trademark Office and will be entered into the specification.

571-272-4200 or 1-888-786-0101
Application Assistance Unit
Office of Data Management

FORM PTOM327-5 (Rev. 02/08)

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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www.uspto.gov

June 8, 2011

SMITH PATENT OFFICE
1901 PENNSYLVANIA AVENUE N W
SUITE 901
WASHINGTON DC 20006

Re Application of
JIANG, TAO, ET AL.
Application: **11/133804**
Filed: **05/19/2005**
Attorney Docket No: **008075-5007-US01**

: DECISION ON PETITION
: ACCEPTANCE OF COLOR
: DRAWINGS

This is a decision on the Renewal of Petition to Accept Color Drawings under 37 C.F.R 1.84 (a) (2), received in the United States Patent and Trademark Office (USPTO) May 19, 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

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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

MAILED

SEP 30 2010

OFFICE OF PETITIONS

In re Application of	:	
Markus M. Enzelberger, et al.	:	
Application No. 11/133,805	:	DECISION ON PETITION
Filed: May 19, 2005	:	
Attorney Docket No. 20174C-004431US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 16, 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 June 9, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed March 9, 2010. Accordingly, the date of abandonment of this application is June 10, 2010. The Notice of Abandonment was mailed July 1, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of 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.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to Terri Johnson at (571) 272-2991.

This application is being referred to the Office of Data Management for processing into a patent.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

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 17 2011
OFFICE OF PETITIONS

ALEXANDER FRANCO
21534 WILD TIMBER CT
BROADLANDS VA 20148

In re Application of	:	
FRANCO et al.	:	
Application No. 11/133,829	:	DECISION ON APPLICATION
Filed: 05/20/2005	:	FOR
Docket No. HFRANCO.004A	:	PATENT TERM ADJUSTMENT

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR § 1.705(d)" filed August 2, 2011, which is properly 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 corrected from seven hundred seventy-four (774) days to one thousand one hundred sixty-seven (1167) days.

The application for patent term adjustment is **GRANTED**.

The Office has updated the PALM and PAIR screens to reflect that the corrected Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is one thousand one hundred sixty-seven (1167) days. A copy of the updated PALM screen, showing the corrected determination, is enclosed.

A review of the application history confirms that applicants' characterization of the basis for and amounts of the adjustments and reductions of patent term in this application at the time of the mailing of the Notice of Allowance are correct.

In view thereof, the corrected determination of patent term adjustment at the time of the mailing of the Notice of Allowance is one thousand one hundred sixty-seven (1167) days.

The Office acknowledges the payment 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 in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

The Office of Data Management has been advised of this decision. This matter is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PALM Screen

Patent Term Adjustments

PTA/PTE Information | Patent Term Adjustment | Patent Term Extension

Application Number*: 11133829 Search | Explanation of PTA Calculation | Explanation of PTE Calculation

PTA Calculations for Application: 11133829

Application Filing Date	05/20/2005	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	1167
A Delays	299	PTO Manual Adjustment	393
B Delays	0	Applicant Delay (APPL)	393
C Delays	868	Total PTA (days)	1167

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
99	08/11/2011		P028	Adjustment of PTA Calculation by PTO	393		0
93	05/03/2011		MN/=.	Mail Notice of Allowance			0
92	05/03/2011		IREV	Issue Revision Completed			0
91	05/03/2011		DVER	Document Verification			0
90	04/28/2011		N/=.	Notice of Allowance Data Verification Completed			0
89	04/28/2011		DOCK	Case Docketed to Examiner in GAU			0
88	04/28/2011		CNTA	Allowability Notice			0
83	04/20/2011		FWDX	Date Forwarded to Examiner			0
82	04/19/2011		A...	Response after Non-Final Action			0
81	01/19/2011		MCTNF	Mail Non-Final Rejection			0
80	01/18/2011		CTNF	Non-Final Rejection			0
79	01/07/2011		FWDX	Date Forwarded to Examiner			0
76	01/07/2011		ABN9	Disposal for a RCE / CPA / R129			0
78	01/06/2011		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE			0
77	01/06/2011		RCEX	Request for Continued Examination (RCE)			0
75	01/06/2011		BRCE	Workflow - Request for RCE - Begin			0
74	11/12/2010		FIDC	Finished Initial Data Capture			0
73	10/11/2010		EIDC	Export to Initial Data Capture			0
72	10/06/2010		MEX.A	Mail Examiner's Amendment			0
71	10/06/2010		MN/=.	Mail Notice of Allowance			0
70	10/01/2010		IREV	Issue Revision Completed			0
69	10/01/2010		DVER	Document Verification			0
68	09/27/2010		N/=.	Notice of Allowance Data Verification Completed			0
66	09/27/2010		EX.A	Examiner's Amendment Communication			0
65	09/27/2010		CNTA	Allowability Notice			0
67	09/21/2010		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
63	06/16/2010	01/31/2008	MAPDP	Mail BPAI Decision on Appeal - Affirmed in Part	868		31
62	06/16/2010		APDP	BPAI Decision - Examiner Affirmed in Part			0
61	05/24/2010		APWH	Waiver of Hearing by Appellant			0
60	05/03/2010		APNH	Notification of Appeal Hearing			0
59	04/26/2010		MP003	Mail-Record Petition Decision of Granted to Make Special			0
58	04/26/2010		P003	Record Petition Decision of Granted to Make Special			0
64	12/14/2009		IDSC	Information Disclosure Statement considered			0
55	12/14/2009	11/16/2008	M844	Information Disclosure Statement (IDS) Filed		393	45
54	12/14/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
52	04/24/2009		AP_DK_M	Docketing Notice Mailed to Appellant			0
51	04/23/2009		APAS	Assignment of Appeal Number			0
50	02/04/2009		APWD	Appeal Awaiting BPAI Docketing			0
49	01/29/2009		MRBNE	Mail Reply Brief Noted by Examiner			0
48	01/28/2009		RBNE	Reply Brief Noted by Examiner			0
46	12/08/2008		FWDX	Date Forwarded to Examiner			0
47	11/16/2008		APOH	Request for Oral Hearing			0
45	11/16/2008		APRB	Reply Brief Filed			0
44	10/06/2008		PACC	Exam. Ans. Review Complete			0
43	09/18/2008		MAPEA	Mail Examiner's Answer			0
42	09/15/2008		APEA	Examiner's Answer to Appeal Brief			0
41	07/10/2008		APBR	Appeal Brief Review Complete			0
40	07/10/2008		FWDX	Date Forwarded to Examiner			0
39	07/06/2008		AP.B	Appeal Brief Filed			0
38	06/06/2008		APBD	Notice -- Defective Appeal Brief			0
37	06/05/2008		APBR	Appeal Brief Review Complete			0
36	06/05/2008		FWDX	Date Forwarded to Examiner			0
35.1	06/02/2008		APBI	Defective / Incomplete Appeal Brief Filed			0
35	06/02/2008		AP.B	Appeal Brief Filed			0

34	06/02/2008		XT/G	Request for Extension of Time - Granted		0
33	05/27/2008		C.AD	Correspondence Address Change		0
31	01/31/2008		N/AP	Notice of Appeal Filed		0
30	01/23/2008		DOCK	Case Docketed to Examiner in GAU		0
29	10/31/2007		MCTFR	Mail Final Rejection (PTOL - 326)		0
28	10/29/2007		CTFR	Final Rejection		0
25	08/15/2007		FWDX	Date Forwarded to Examiner		0
24	08/13/2007		A...	Response after Non-Final Action		0
23	08/06/2007		DOCK	Case Docketed to Examiner in GAU		0
22	06/28/2007		MEXIN	Mail Examiner Interview Summary (PTOL - 413)		0
21	06/26/2007		EXIN	Examiner Interview Summary Record (PTOL - 413)		0
20	05/15/2007	07/20/2006	MCTNF	Mail Non-Final Rejection	299	0.5
19	05/10/2007		CTNF	Non-Final Rejection		0
17	03/16/2007		DOCK	Case Docketed to Examiner in GAU		0
16	03/16/2007		DOCK	Case Docketed to Examiner in GAU		0
15	03/16/2007		DOCK	Case Docketed to Examiner in GAU		0
14	02/28/2006		DOCK	Case Docketed to Examiner in GAU		0
13	02/14/2006		TSSCOMP	IFW TSS Processing by Tech Center Complete		0
12	02/14/2006		DOCK	Case Docketed to Examiner in GAU		0
9	06/21/2005		COMP	Application Is Now Complete		0
10	06/20/2005		WROIPE	Application Return from OIPE		0
8	06/20/2005		ROIPE	Application Return TO OIPE		0
7	06/20/2005		OIPE	Application Dispatched from OIPE		0
6	06/20/2005		COMP	Application Is Now Complete		0
4	06/08/2005		L128	Cleared by L&R (LARS)		0
3	06/07/2005		L198	Referred to Level 2 (LARS) by OIPE CSR		0
2	06/02/2005		SCAN	IFW Scan & PACR Auto Security Review		0
57	05/20/2005		PET.	Petition Entered		0
18	05/20/2005		IDSC	Information Disclosure Statement considered		0
11.7	05/20/2005		M844	Information Disclosure Statement (IDS) Filed		0
11	05/20/2005		WIDS	Information Disclosure Statement (IDS) Filed		0
5	05/20/2005		NPRQ	PGPubs nonPub Request		0
1	05/20/2005		IEXX	Initial Exam Team nn		0
0.5	05/20/2005		EFILE	Filing date		0

Export to: Excel

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Texas Instruments Incorporated
P.O. BOX 655474, M/S 3999
Dallas, TX 75265

MAILED
SEP 21 2010
OFFICE OF PETITIONS

In re Application of
Thang Minh Tran, et. al.
Application No. 11/133,870
Filed: May 18, 2005
Attorney Docket No. TI-38176

DECISION 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 satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal with the $540 fee; (2) the petition fee of $1,620; and (3) a proper statement of unintentional delay. Therefore, the petition is **granted**.

The two-month period for filing an appeal brief under 37 CFR 41.37 (accompanied by the $540 fee required by 37 CFR 41.20(b)(2)), runs from the date of this decision.

It is noted that the address given in the present petition differs from the correspondence address of record. So, a courtesy copy of this decision is being mailed to the address in the petition. Thereafter, all future communications from the Office will be mailed to the address of record until otherwise instructed.

This application is being referred to Technology Center Art Unit 2184 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Wade J. Brady III
7839 Churchill Way, MS 3999
Dallas, TX 75251

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MAY 11 2011
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Innovation Counsel LLP
21771 Stevens Creek Blvd
Ste. 200A
Cupertino CA 95014

In re Patent No. 7,710,366	:	
Issue Date: May 4, 2010	:	
Application No. 11/133,878	:	DECISION ON PETITION
Filed: May 19, 2005	:	
Attorney Docket No. PANK02203 US	:	

This is a decision on the Request To Correct Name Of Assignee Per 37 CFR 3.81(b), filed May 19, 2010, to accept the omission of the second assignee's name. A completed Certificate of Correction Form (PTO/SB/44) was submitted with Petition.

The petition under 37 CFR §3.81(b) is **GRANTED**.

Petitioner requests that the present Petition was submitted to accept the omission of the second assignee's name on the previously submitted PTOL 85B and such error was inadvertent. Accordingly, petitioner urges that a Certificate of Correction (PTO/SB/44) be issued to add the omitted second assignee's name to the Title Page of the Letters Patent.

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in §3.11 before issuance of the patent, and must include a request for a certificate of correction under §1.323 of this chapter (accompanied by the fee set forth in §1.20(a) and the processing fee set forth in §1.17(i) of this chapter.

The requisite $100.00 fee (Fee Code 1811), as set forth under 37 CFR 1.20(a), 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 petition was accompanied deposit account authorization, the fee has been charged. Further, Office assignment records are consistent with the requested correction. Accordingly, since the Petition complies with the provisions of 37 CFR §3.81(b), it is appropriate for the Office to issue a Certificate of Correction in accordance with the content of the Form submitted with Petition.

Inquiries related this communication should be directed to the undersigned at (571)272-3213.

Any questions concerning the issuance of a Certificate of Correction should be directed to the Certificates of Correction Branch at (703)756-1814.

This matter is being referred to the Certificates of Correction Branch for processing of a Certificate of Correction in U.S. Patent No. 7,710,366.

Cheryl Gibson-Baylor

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450

RICHARD L. BIGELOW
203 TREMONT STREET
NEWINGTON CT 06111

MAILED
AUG 04 2011
OFFICE OF PETITIONS

In re Application of	:	
Franklin J.A. TARANTINO	:	DECISION DISMISSING PETITION
Application No. 11/133,881	:	UNDER 37 CFR 1.137(b)
Filed: May 21, 2005	:	
Atty. Docket No.: FJAT-05-001	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 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 are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)". This is not a final agency action within the meaning of 5 U.S.C. §704.

The application became abandoned for failure to reply in a timely manner to the final Office action mailed April 15, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under 37 CFR 1.136(a) were obtained. The application thus became abandoned on July 16, 2009, and a Notice of Abandonment was mailed November 9, 2009.

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).

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 15, 2009. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission

(37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). *See* MPEP 711.03(c)(III)(A)(2). Since the amendment submitted does not *prima facie* place the application in condition for allowance (**see the copy of the Advisory action attached**), the reply required must be a Notice of Appeal (and appeal fee), RCE, or the filing of a continuing application under 37 CFR 1.53(b).

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 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

Encl. Advisory Action, PTOL-303

Advisory Action Before the Filing of an Appeal Brief	Application No. 11/133,881	Applicant(s) TARANTINO, FRANKLIN J.A.	
	Examiner SUN LI	Art Unit 3622	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 27 January 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 _____months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.
   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: _____.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☒ Other: DO NOT ENTER.

/SUN LI/
Examiner, Art Unit 3622

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W. Ulrich
501 Forest Aveue
Unit 406
Glen Ellyn, IL 60137-4175

Mail Date: 08/04/2010

Applicant	: Yigang Cai	: DECISION ON REQUEST FOR
Patent Number	: 7643623	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/133,934	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/20/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1264** 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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DERGOSITS & NOAH LLP
Three Embarcadero Center
Suite 410
SAN FRANCISCO CA 94111

MAILED
JUL 20 2011
OFFICE OF PETITIONS

In re Application of	:	
Lock	:	
Application No. 11/133,939	:	NOTICE
Filed: May 20, 2005	:	
Attorney Docket No. 411.19	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed June 6, 2011.

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3215.

Charlema Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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January 12, 2012

JENKINS, WILSON, TAYLOR & HUNT, P. A.
3100 Tower Blvd.
Suite 1200
DURHAM NC 27707

In re Application of	:	
Marie Coffin et al.	:	**DECISION ON PETITION**
Application No. 11133953	:	
Filed: 05/20/2005	:	***ACCEPTANCE OF COLOR***
Attorney Docket No. **1688/3**	:	***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 20, 2005.

The petition is **GRANTED**.

A grantable petition under 37 C.F.R. 1.84(a) (2) must be accompanied by the following.

1. The fee set forth under 37 C.F.R. 1.17(h),
2. Three (3) sets of the color drawings in question, or (1) set if filed via EFS, and
3. The specification contains appropriate language referring to the color drawings as the first paragraph in that portion of the specification relating to the brief description of the drawings.

The petition was accompanied by all of the required fees and drawings. The specification contains the appropriate language. Therefore, the petition is GRANTED.

Telephone inquires relating to this decision may be directed to the undersigned in the Office of Data Management at 571-272-4200.

/Laura Feldman/
Quality Control Specialist
Office of Data Management
Publications Branch

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/134,011	05/20/2005	Daniele J. Kenny	Kenny	9453

7590 06/03/2011
Bernard S. Hoffman
10 Colgate Street
Port Jefferson Station, NY 11776

EXAMINER
SMITH, RUTH S

ART UNIT	PAPER NUMBER
3737	

MAIL DATE	DELIVERY MODE
06/03/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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Bernard S. Hoffman
10 Colgate Street
Port Jefferson Station NY 11776

In re Application of: KENNY, DANIELE J. Serial No.: 11/134,011 Filed: may 20, 2005 Docket: Kenny Title: NEOPLASM CELL DESTRUCTION DEVICE	DECISION ON PETITION

This is a decision on the petition filed on May 12, 2011 seeking to convert the current application from a continuation to a continuation-in-part status and withdraw the objection to the specification and claims 11-20 in the non-final Office action mailed Nov. 16, 2005 and repeated in the final Office action of Oct. 20, 2006. This petition is being considered pursuant to 37 CFR §1.181. No fee is required.

The petition is denied as untimely.

In the May 12, 2011 petition, the petitioner requests conversion of the current application status from "a continuation of SN 08/777,452" to "a continuation in part of SN 08/777,452". Petitioner also requests the objection to the specification and claims 11-20 in the non-final Office action and the final Office action of Oct. 20, 2006 be withdrawn because petitioner believes that the Board decision of March 24, 2011 has addressed these issues relating to the objections to the specification and claims.

Discussion and Analysis

With regard to the request to convert the current application status from a continuation to a continuation in part application, petitioner must file a separate petition with the Petitions Office for such conversion request because any request to change status of a patent application is handled by the Office of Initial Patent Examination. If petitioner wishes to make similar changes in the related PCT application, PCT/US05/33978, a petition to PCT Office is also required.

A review of the record shows that the instant petition of May 12, 2011 was filed more than five year after the mailing date of the non-final Office actions Nov. 16, 2005. Pursuant to 37 CFR § 1.181(f)[1], the petition must be filed within two months from the action complained of. Since the

[1] 37 CFR 1.181(f): The mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings. Any petition under this part not filed within two months of the mailing date of the action or notice from which relief is requested may be dismissed as untimely, except as otherwise provided. This two-month period is not extendable.

petition was not timely filed, the requested withdrawal of objection to the specification and the claims in the non-final Office action mailed Nov. 16, 2005 and repeated in the final Office action of Oct. 20, 2006 will not be granted.

Conclusion

For the reasons as set forth above, petitioner's request to withdraw the objection to the specification for failure to provide antecedent basis of the added claim language is dismissed as untimely.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision, 37 CFR 1.181(f). No extension of time under 37 CFR 1.136(a) is permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181" and directed to the Office of the Deputy Commissioner for Patent Examination Policy at Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450. See MPEP 1002.02(b).

The application is being forwarded to the Board of Patent Appeals and Interferences for consideration of Request for Re-Hearing. Any inquiry regarding this decision should be directed to Henry Yuen, Special Programs Examiner, at (571) 272-4856.

Accordingly, the petition is **denied.**

Angela D. Sykes

Angela D. Sykes, Director
Technology Center 3700

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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MICHAEL G. CRILLY, ESQUIRE
LAW OFFICES OF MICHAEL CRILLY
104 SOUTH YORK ROAD
HATBORO, PA 19040

MAILED

SEP 29 2011

OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
GLENN M. GARRISON et al	:	
Application No. 11/134,249	:	
Filed: May 20, 2005	:	
Attorney Docket No. 76351.00101	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 27, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application was abandoned for failure to properly reply to the final office action dated October 27, 2008. No extensions of time was requested under 37 CFR 1.136(a). The application was abandoned January 28, 2009. The Notice of Abandonment was mailed May 11, 2011

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuing application under 37 CFR 1.53(b); (2) the petition fee of 930.00; (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. 12/349,283, filed January 6, 2009.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-0602.

Thurman K. Page
Petitions Examiner
Office of Petitions

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FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER
LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

MAILED
DEC 29 2011
OFFICE OF PETITIONS

In re Application :
Bakker :
Application No. 11/134,455 : PATENT TERM ADJUSTMENT
Filing or 371(c) Date: May 23, 2005 :
Dkt. No.: 01975.0045-01 :

This is in response to the application for patent term adjustment pursuant to 37 CFR 1.705(b) filed December 15, 2011.

The request for reconsideration of patent term adjustment is **GRANTED TO THE EXTENT INDICATED HEREIN**.

Applicant submits that the correct patent term adjustment to be indicated on the patent is 556 days, not 860 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment mailed September 29, 2011. Applicants assert that the period of delay attributable to the Office under 37 CFR 1.702(a) is 706 days and that the period of delay attributable to the applicant is 150 days.

The arguments presented have been carefully reviewed and found in part convincing. A thorough review of the record reveals that at the time of allowance, the application was entitled to an overall patent term adjustment of 114 days.

The Office errantly entered an adjustment of 304 days in connection with the mailing of the decision on November 18, 2008 by the Board of Patent Appeals and Interferences. The mailing of the decision was not a ground for adjustment within the meaning of 37 CFR 1.702(a). Accordingly, the adjustment of 304 days has been removed.

The Office errantly entered an adjustment of 706 days in connection with the mailing of the non-final Office action on February 23, 2011. The correct period of adjustment in this regard is 264 days. The adjustment commenced June 5, 2010, the day after the date that is four months after the date that the request for continued examination was filed, and ended February 23, 2011, the date that the non-final Office action as mailed. See, 37 CFR 1.702(a)(2) and 1.703(a)(3).

In view thereof, at the time of allowance, the application was entitled to an overall adjustment of 114 days (264 days under 37 CFR 1.702(a) less 150 days under 37 CFR 1.704).

The $200.00 patent term adjustment application required per 37 CFR 1.18(e) has been charged to the authorized deposit account.

The application file is being forwarded to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

Enclosure

Patent Term Adjustments

PTA/PTE Information | Patent Term Adjustment | Patent Term Extension

Application Number*: 11134455 Search | Explanation of PTA Calculation | Explanation of PTE Calculation

PTA Calculations for Application: 11134455

Application Filing Date	05/23/2005	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	1010
A Delays	1010	PTO Manual Adjustment	-746
B Delays	0	Applicant Delay (APPL)	150
C Delays	0	Total PTA (days)	114

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
104	12/23/2011		P028	Adjustment of PTA Calculation by PTO	264		0
103	12/23/2011		P028	Adjustment of PTA Calculation by PTO		304	0
102	12/23/2011		P028	Adjustment of PTA Calculation by PTO		706	0
90	09/29/2011		MN/=.	Mail Notice of Allowance			0
89	09/29/2011		OAR	Office Action Review			0
88	09/29/2011		IREV	Issue Revision Completed			0
87	09/29/2011		DVER	Document Verification			0
86	09/29/2011		N/=.	Notice of Allowance Data Verification Completed			0
85	09/29/2011		DOCK	Case Docketed to Examiner in GAU			0
84	09/28/2011		CNTA	Allowability Notice			0
81	08/03/2011		FWDX	Date Forwarded to Examiner			0
82	07/20/2011		AF/D	Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received			0
80	07/20/2011	05/23/2011	A...	Response after Non-Final Action		58	78
79	07/20/2011		XT/G	Request for Extension of Time - Granted			0
78	02/23/2011	03/19/2009	MCTNF	Mail Non-Final Rejection	706		60
77	02/22/2011		CTNF	Non-Final Rejection			0
75	01/28/2011		FWDX	Date Forwarded to Examiner			0
72	01/28/2011		ABN9	Disposal for a RCE / CPA / R129			0
76	02/04/2010		AF/D	Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received			0
74	02/04/2010		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE			0
73	02/04/2010		RCEX	Request for Continued Examination (RCE)			0
68	02/04/2010		BRCE	Workflow - Request for RCE - Begin			0
71	12/07/2009		MNRAB	Mail Notice of Rescinded Abandonment			0
67	12/07/2009		MM327-E	Mail BOA miscellaneous communication to applicant			0
70	12/04/2009		NRAB	Notice of Rescinded Abandonment in TCs			0
66	12/04/2009		M327-E	BOA miscellaneous communication to applicant			0
64	02/06/2009		MABN10	Mailing of Abandonment after Board of Appeals			0
63	02/03/2009		ABN10	Abandonment after Board of Appeals			0
62	12/03/2008		MM327-E	Mail BOA miscellaneous communication to applicant			0
61	12/02/2008		M327-E	BOA miscellaneous communication to applicant			0
60	11/19/2008	01/20/2008	MAPDA	Mail BPAI Decision on Appeal - Affirmed	304		43
59	11/18/2008		APDA	BPAI Decision - Examiner Affirmed			0
58	10/07/2008		APCH	Confirmation of Hearing by Appellant			0
57	09/29/2008		APNH	Notification of Appeal Hearing			0
56	07/02/2008		AP_DK_M	Docketing Notice Mailed to Appellant			0
55	07/01/2008		APAS	Assignment of Appeal Number			0
54	04/23/2008		APWD	Appeal Awaiting BPAI Docketing			0
53	04/17/2008		PACC	Exam. Ans. Review Complete			0
52	04/09/2008		MRBNE	Mail Reply Brief Noted by Examiner			0
51	04/08/2008		RBNE	Reply Brief Noted by Examiner			0
50	03/07/2008		FWDX	Date Forwarded to Examiner			0
49	02/11/2008		APRB	Reply Brief Filed			0
48	02/11/2008		APOH	Request for Oral Hearing			0
47	12/12/2007		MAPEA	Mail Examiner's Answer			0
46	12/10/2007		APEA	Examiner's Answer to Appeal Brief			0
45	10/09/2007		APBR	Appeal Brief Review Complete			0
44	10/09/2007		FWDX	Date Forwarded to Examiner			0
43	09/20/2007		AP.B	Appeal Brief Filed			0
42	08/21/2007		APBD	Notice -- Defective Appeal Brief			0
41	08/16/2007		APBR	Appeal Brief Review Complete			0
40	08/16/2007		FWDX	Date Forwarded to Examiner			0
39.1	07/20/2007		APBI	Defective / Incomplete Appeal Brief Filed			0
39	07/20/2007		AP.B	Appeal Brief Filed			0
38	06/28/2007		APBD	Notice -- Defective Appeal Brief			0
37	06/27/2007		APBR	Appeal Brief Review Complete			0
36	06/27/2007		FWDX	Date Forwarded to Examiner			0
35.1	05/25/2007		APBI	Defective / Incomplete Appeal Brief Filed			0
35	05/25/2007		AP.B	Appeal Brief Filed			0
34	05/25/2007		XT/G	Request for Extension of Time - Granted			0
33	04/02/2007		MAPCP	Mail Appeals conf. Proceed to BPAI			0
32	03/29/2007		APCP	Pre-Appeals Conference Decision - Proceed to BPAI			0
31	02/13/2007		AP.C	Request for Pre-Appeal Conference Filed			0
30	02/13/2007	11/15/2006	N/AP	Notice of Appeal Filed		90	23
29	02/13/2007		XT/G	Request for Extension of Time - Granted			0
28	01/19/2007		MCTAV	Mail Advisory Action (PTOL - 303)			0
27	01/16/2007		CTAV	Advisory Action (PTOL-303)			0
26	01/12/2007		FWDX	Date Forwarded to Examiner			0
25	12/29/2006		A.NE	Amendment after Final Rejection			0
24	12/29/2006		XT/G	Request for Extension of Time - Granted			0
23	08/15/2006		MCTFR	Mail Final Rejection (PTOL - 326)			0

21	06/13/2006		P574	PARALEGAL OR ELECTRONIC TERMINAL DISCLAIMER APPROVED		0
20	06/13/2006		FWDX	Date Forwarded to Examiner		0
19	06/05/2006	06/03/2006	A...	Response after Non-Final Action	2	18
18	03/03/2006		MCTNF	Mail Non-Final Rejection		0
17	03/02/2006		CTNF	Non-Final Rejection		0
16	02/27/2006		DOCK	Case Docketed to Examiner in GAU		0
14	11/30/2005		FWDX	Date Forwarded to Examiner		0
13	11/16/2005		A...	Response after Non-Final Action		0
15	11/07/2005		IDSC	Information Disclosure Statement considered		0
12	11/07/2005		RCAP	Reference capture on IDS		0
11.7	11/07/2005		M844	Information Disclosure Statement (IDS) Filed		0
11	11/07/2005		WIDS	Information Disclosure Statement (IDS) Filed		0
10	08/18/2005		MCTNF	Mail Non-Final Rejection		0
9	08/16/2005		CTNF	Non-Final Rejection		0
8	07/07/2005		TSSCOMP	IFW TSS Processing by Tech Center Complete		0
7	07/07/2005		DOCK	Case Docketed to Examiner in GAU		0
6	06/16/2005		A.PE	Preliminary Amendment		0
5	06/16/2005		OIPE	Application Dispatched from OIPE		0
4	06/16/2005		COMP	Application Is Now Complete		0
3	06/02/2005		L194	Cleared by OIPE CSR		0
2	05/30/2005		SCAN	IFW Scan & PACR Auto Security Review		0
1	05/23/2005		IEXX	Initial Exam Team nn		0
0.5	05/23/2005		EFILE	Filing date		0

Export to: Excel

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MAILED
FEB 23 2012
OFFICE OF PETITIONS

ROBERT K. TENDLER
65 ATLANTIC AVENUE
BOSTON, MA 02110

In re Patent No. 7,308,088	:	
Issue Date: December 11, 2007	:	
Application No. 11/134,669	:	ON PETITION
Filed: May 19, 2005	:	
Attorney Docket No.: 3052/125	:	

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 December 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.

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 : October 27, 2010

TO SPE OF : ART UNIT 2191
SUBJECT : Request for Certificate of Correction for Appl. No/11/134714-7607126

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Magdalene Talley

Certificates of Correction Branch

571-272-0423 _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

	Approved	**All** changes apply.
☐	**Approved in Part**	Specify below which changes **do not** apply.
☒	**Denied**	State the reasons for denial below.

Comments: The changes is already done (see the patent)

~~It will~~

AU 2191

SPE **Art Unit**

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MAILED
FEB 24 2012
OFFICE OF PETITIONS

PATENT OFFICE OF J. JOHN SHIMAZAKI
P.O. BOX 650741
STERLING VA 20165

In re Patent No. 7,067,937
Issue Date: June 27, 2006
Application No. 11/134,801
Filed: May 20, 2005
Attorney Docket No. 26877-0002

: DECISION GRANTING PETITION
: UNDER 37 CFR 1.78(a)(3) AND
: REQUEST FOR CERTIFICATE OF
: CORRECTION
:

This is a decision on the renewed petition, filed April 27, 2010 under 37 CFR 1.78(a)(3), specifying the relationship between the instant patent and the previous related applications, by way of a certificate of correction.

The petition is **granted**.

A review of the file record fails to disclose that a claim for the benefit of priority to the above-noted, prior-filed nonprovisional application was made within the time period set forth in 37 CFR 1.78(a)(2)(ii) and further failed to include a proper reference to the prior-filed application as required by 37 CFR 1.78(a)(2)(i) and 1.78(a)(2)(iii).

The instant application was filed June 27, 2006. 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.

The papers filed October 21, 2010 and February 1, 2012 are being treated as status requests. The $400 received on February 1, 2012 is being credit to petitioner's credit card.

Any inquiries concerning this decision may be directed to Irvin Dingle at (571) 272-3210.

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).

David Bucci
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/134,801	05/20/2005	2834	850	26877-0002	22	3

CONFIRMATION NO. 2556

CORRECTED FILING RECEIPT

Patent Office of J. John Shimazaki
P.O. Box 650741
Sterling, VA 20165

OC000000052733450

Date Mailed: 02/23/2012

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)

Ben M. Enis, Henderson, NV;
Paul Lieberman, Torrance, CA;

Power of Attorney:
J Shimazaki--37236
Douglas Mullen--38569
Richard Jones--39242

Domestic Priority data as claimed by applicant

This application is a CON of 10/263,848 10/04/2002 PAT 6927503
which claims benefit of 60/327,012 10/05/2001
and claims benefit of 60/408,876 09/09/2002

Foreign Applications (You may be eligible to benefit from the **Patent Prosecution Highway** program at the USPTO. Please see http://www.uspto.gov for more information.)

If Required, Foreign Filing License Granted: 07/06/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/134,801**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

METHOD AND APPARATUS FOR USING WIND TURBINES TO GENERATE AND SUPPLY UNINTERRUPTED POWER TO LOCATIONS REMOTE FROM THE POWER GRID

Preliminary Class

290

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where

the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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Paper No.

DOUGLAS T. JOHNSON
MILLER & MARTIN
1000 VOLUNTEER BUILDING
832 GEORGIA AVENUE
CHATTANOOGA TN 37402-2289

MAILED
MAR 28 2011
OFFICE OF PETITIONS

In re Application of :
Hagemeyer et al. :
Application No. 11/134,831 :
Patent No.: 7,892,590 :
Filed: May 20, 2005 :
Issued: February 22, 2011 :
Attorney Docket No.: 16599-0001 :
Title: EXTENDED SHELF LIFE AND :
BULK TRANSPORT OF PERISHABLE :
ORGANIC LIQUIDS WITH LOW :
PRESSURE CARBON DIOXIDE :

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 January 10, 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 $590 has been received.

Your fee deficiency submission pursuant to 37 C.F.R. § 1.28(c) is hereby accepted. The petition is **GRANTED** accordingly.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[1]

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

1 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

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2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

MAILED
OCT 06 2010
OFFICE OF PETITIONS

In re Patent No. 7,120,943 :
Issue Date: October 17, 2006 :
Application No. 11/135,110 : DECISION ON PETITION
Filed: May 23, 2005 :
Attorney Docket No. MAGENG.047CP2C :

This is a decision on the Petition Under 37 C.F.R. § 3.81 To State The Name Of The Assignee, filed August 19, 2010, requesting correction on the Title Page of the subject patent to identify the correct assignee's name. An equivalent Certificate of Correction Form (PTO/SB/44) was submitted with Petition.

The petition under 37 CFR §3.81(b) is **GRANTED**.

Petitioner urges that the present Petition was submitted to correct the assignee's name on the previously submitted PTOL-85B. Accordingly, petitioner requests that a Certificate of Correction (PTO/SB/44) be issued to correct assignee's name to the Title Page of the Letters Patent.

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

The requisite $100.00 fee (Fee Code 1811), as set forth under 37 CFR 1.20(a), and the requisite $130.00 processing fee (Fee Code 1464), as set forth under 37 CFR 1.17(i), have been submitted. Further, Office assignment records are consistent with the requested correction. Accordingly, since the Petition complies with the provisions of 37 CFR 3.81(b), it is appropriate for the Office to issue a Certificate of Correction in accordance with the content of the Form PTO/SB/44 submitted with Petition.

Inquiries related this communication should be directed to the undersigned at (571)272-3213.

Any questions concerning the issuance of a Certificate of Correction should be directed to the Certificates of Correction Branch at (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. 7,120,943.

Cheryl Gibson-Baylor

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

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U.S. ARMY SOLDIER SYSTEMS CENTER
LEGAL OFFICE, A306
15 KANSAS STREET
NATICK MA 01760-5035

MAILED
OCT 20 2010
OFFICE OF PETITIONS

In re Application of	:	
Arcidiacono et al.	:	
Application No. 11/135,130	:	DECISION ON PETITION
Filed: May 23, 2005	:	
Attorney Docket No. NA-1260	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 30, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, December 7, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on March 8, 2010. A Notice of Abandonment was mailed June 21, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment, (2) the petition fee of $1,620.00, and (3) a proper statement of unintentional delay.

The address given on the petition differs from the address of record. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

This application is being referred to Technology Center AU 1645 for appropriate action by the Examiner in the normal course of business on the reply received.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Edward M. Kriegsman
Kriegsman & Kriegsman
30 Turnpike Road, Suite 9
Southborough, MA 01772

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11/17/10

TO SPE OF : ART UNIT 3736 McDermott Corrine (Spe)

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/135354 Patent No.: 7749281

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.

X **Approved** — **All** changes apply.

☐ **Approved in Part** — Specify below which changes **do not** apply.

☐ **Denied** — State the reasons for denial below.

Comments: _____

ok to enter /David H. Willse/

_____ **SPE** _____ **Art Unit**

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/135,385	05/24/2005	Yuichi Hirakawa	2005_0861A	3003

513 7590 09/16/2010
WENDEROTH, LIND & PONACK, L.L.P.
1030 15th Street, N.W.,
Suite 400 East
Washington, DC 20005-1503

EXAMINER
YANG, JIE

ART UNIT	PAPER NUMBER
1793	

NOTIFICATION DATE	DELIVERY MODE
09/16/2010	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ddalecki@wenderoth.com
eoa@wenderoth.com

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Alexandria, VA 22313-1450
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glm

SEP 16 2010

In re application of	:	
Hirakawa et al.	:	DECISION
Serial No. 11/135,385	:	ON
Filed: May 24, 2005	:	PETITION
For: PRECIPITATION HARDENED MARTENSITIC	:	
STAINLESS STEEL, MANUFACTURING METHOD	:	
THEREFOR, AND TURBINE MOVING BLADE AND	:	
STEAM TURBINE USING THE SAME	:	

This is a decision on the PETITION UNDER 37 CFR 1.136(b) filed on September 8, 2010.

An examiner's answer was mailed on August 8, 2010. Under 37 CFR 41.41, a reply brief is due within two months of the answer, a time period for which the provisions of 37 CFR 1.136(a) do not apply, but which may be extended under 37 CFR 1.136(b). The petition of September 8, 2010 thus requests a one month extension under 37 CFR 1.136(b) for replying to the answer.

The petition is **GRANTED** for the reasons below.

DECISION

Extensions under 37 CFR 1.136(b) may be granted for sufficient cause and for a reasonable time period. Applicant's petition sets forth sufficient grounds for the mere one month requested, given the particular circumstances of the instant application.

Accordingly, the petition for a one month extension is ***granted***.

/W. GARY JONES/
W. Gary Jones
Director, Technology Center 1700
Chemical and Materials Engineering

WENDEROTH, LIND & PONACK, L.L.P.
1030 15th Street, N.W.,
Suite 400 East
Washington DC 20005-1503

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Michael P. Morris
Boehringer Ingelheim USA Corporation
900 Ridgebury Rd.
PO Box 368
Ridgefield CT 06877-0368

MAILED
OCT 04 2010
OFFICE OF PETITIONS

In re Patent No. 7,514,557	:
Busacca et al.	: DECISION UPON REMAND AND
Issue Date: April 7, 2009	: RECONSIDERATION OF
Application No. 11/135,533	: PATENT TERM ADJUSTMENT
Filed: May 23, 2005	: AND NOTICE OF INTENT
Attorney Docket No. 09-0316	: TO ISSUE CERTIFICATE OF
Title: Process for Preparing	: CORRECTION
Acyclic HCV Protease Inhibitors	:

This is a decision following remand from the District Court for the District of Columbia regarding the patent term adjustment indicated on the above-identified patent. The Court remanded this matter to the U.S. Patent and Trademark Office for recalculation of the patent term adjustment in accordance with the decision in Wyeth & Elan Pharma Int'l Ltd. v. Kappos, 591 F.3d 1364 (Fed. Cir. 2010).

The patent term adjustment indicated on the above-identified patent has been recalculated as directed by the Court. The term of the above-identified patent is extended or adjusted by eight hundred and eighty-nine (889) days.

The application is being forwarded to the Certificates Branch for issuance of a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by eight hundred and eighty-two (889) 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 : 7,514,557

DATED : **April 7, 2009** **DRAFT**

INVENTOR(S) : Busacca et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 570 days

Delete the phrase "by 570" and insert – by 889 days--

Day : Friday
Date: 10/1/2010

PALM INTRANET

Time: 11:13:57

PTA Calculations for Application: 11/135533			
Application Filing Date:	05/23/2005	PTO Delay (PTO):	600
Issue Date of Patent:	04/07/2009	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	30
Post-Issue Petitions:	0	Total PTA (days):	889
PTO Delay Adjustment:	319		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
57	10/01/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	319		
51.5	03/18/2009	PTA 36 MONTHS			
51	04/07/2009	PATENT ISSUE DATE USED IN PTA CALCULATION			
50	02/23/2009	EXPORT TO FINAL DATA CAPTURE			
49	02/20/2009	DISPATCH TO FDC			
48	02/17/2009	MAIL-PETITION DECISION - DISMISSED			
47	02/17/2009	PETITION DECISION - DISMISSED			
46	01/27/2009	FINISHED INITIAL DATA CAPTURE			
45	01/27/2009	MAIL RESPONSE TO 312 AMENDMENT (PTO-271)			
44	01/12/2009	PETITION ENTERED			
43	01/22/2009	RESPONSE TO AMENDMENT UNDER RULE 312			
42	01/14/2009	AMENDMENT AFTER NOTICE OF ALLOWANCE (RULE 312)		14	45
41	01/16/2009	APPLICATION IS CONSIDERED READY FOR ISSUE			
40	01/14/2009	ISSUE FEE PAYMENT VERIFIED			
39	01/14/2009	ISSUE FEE PAYMENT RECEIVED			
38	10/20/2008	EXPORT TO INITIAL DATA CAPTURE			
37	10/17/2008	MAIL NOTICE OF ALLOWANCE			
36	10/15/2008	ISSUE REVISION COMPLETED			
35	10/15/2008	DOCUMENT VERIFICATION			
34	10/15/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
33	10/15/2008	CASE DOCKETED TO EXAMINER IN GAU			
32	10/07/2008	NOTICE OF ALLOWABILITY			

31	09/22/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
30	09/22/2008	MISCELLANEOUS INCOMING LETTER			
29	09/22/2008	ELECTRONIC INFORMATION DISCLOSURE STATEMENT		13	24
28	09/09/2008	MISCELLANEOUS INCOMING LETTER			
27	09/29/2008	DATE FORWARDED TO EXAMINER			
26	09/08/2008	SUPPLEMENTAL RESPONSE			
25	09/29/2008	DATE FORWARDED TO EXAMINER			
24	09/09/2008	RESPONSE AFTER NON-FINAL ACTION		3	21
22	09/22/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
21	06/06/2008	MAIL NON-FINAL REJECTION			
20	06/05/2008	NON-FINAL REJECTION			
19	02/09/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
16	04/25/2008	DATE FORWARDED TO EXAMINER			
15	04/14/2008	RESPONSE TO ELECTION / RESTRICTION FILED			
14	03/14/2008	MAIL RESTRICTION REQUIREMENT	600		-1
13	03/05/2008	REQUIREMENT FOR RESTRICTION / ELECTION			
9	02/09/2006	REFERENCE CAPTURE ON IDS			
8.7	02/09/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
8	02/09/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
7	10/17/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
6	10/17/2005	CASE DOCKETED TO EXAMINER IN GAU			
5	06/15/2005	APPLICATION DISPATCHED FROM OIPE			
4	06/16/2005	APPLICATION IS NOW COMPLETE			
3	06/02/2005	CLEARED BY OIPE CSR			
2	05/29/2005	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	05/23/2005	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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P.O. BOX 320850
ALEXANDRIA VA 22320-4850

MAILED

AUG 2 7 2010

OFFICE OF PETITIONS

In re Application of	:	
Koji Aoki	:	
Application No. 11/135,537	:	DECISION GRANTING PETITION
Filed: May 24, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 123983	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, August 27, 2010 to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 29, 2009 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 2629 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Terri Johnson

Terri Johnson
Petitions Examiner
Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS, TX 75265

Mail Date: 08/03/2010

Applicant	: Peter Chang	: DECISION ON REQUEST FOR
Patent Number	: 7649569	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/135,724	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/24/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1275** 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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Vista IP Law Group LLP
2040 MAIN STREET, Suite 710
IRVINE CA 92614

MAILED
DEC 20 2010
OFFICE OF PETITIONS

In re Application of	:	
Lawrence E. Tannas	:	
Application No. 11/135,785	:	DECISION ON PETITION
Filed: May 23, 2005	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. **TNS-012**	:	

This is a decision on the petition, filed December 1, 2010, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is hereby **GRANTED**.

The requirements in 35 U.S.C. 122(b)(2)(B)(iii) for notice of the foreign filing is in addition to any rescission of the nonpublication request under 35 U.S.C. 122(b)(2)(B)(ii). If an applicant files a counterpart application in a foreign country after having filed an application in the USPTO wit a nonpublication request, filing a rescission of the nonpublication r4equst under 35 U.S.C. 122(b)(2)(B)(ii) without also providing a notice of the foreign filing in a timely manner will result in the abandonment of the U.S. application under 35 U.S.C. 122(b)(2)(B)(iii).

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on April 22, 2010. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of March 31, 2011, accompanies this decision on petition.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at (571) 272-4584.

This application is being forward to Technology Center Art Unit 3724 for examination in due course.

JoAnne Burke
Petitions Examiner
Office of Petitions

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

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United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/135,785	05/23/2005	Lawrence E. Tannas	TNS-012

CONFIRMATION NO. 5012

23410
Vista IP Law Group LLP
2040 MAIN STREET, Suite 710
IRVINE, CA 92614

NONPUBLICATION RESCISSION LETTER

OC000000045045836

Date Mailed: 12/20/2010

Communication Regarding Rescission Of Nonpublication Request and/or Notice of Foreign Filing

Applicant's rescission of the previously-filed nonpublication request and/or notice of foreign filing is acknowledged. The paper has been reflected in the Patent and Trademark Office's (USPTO's) computer records so that the earliest possible projected publication date can be assigned.

The projected publication date is 03/31/2011.

If applicant rescinded the nonpublication request before or on the date of "foreign filing,"[1] then no notice of foreign filing is required.

If applicant foreign filed the application after filing the above application and before filing the rescission, and the rescission did not also include a notice of foreign filing, then a notice of foreign filing (not merely a rescission) is required to be filed within 45 days of the date of foreign filing. See 35 U.S.C. § 122(b)(2)(B)(iii), and Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. § 122(b)(2)(B)(ii)-(iv), 1272 Off. Gaz. Pat. Office 22 (July 1, 2003).

If a notice of foreign filing is required and is not filed within 45 days of the date of foreign filing, then the application becomes abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii). In this situation, applicant should either file a petition to revive or notify the Office that the application is abandoned. See 37 CFR 1.137(f). Any such petition to revive will be forwarded to the Office of Petitions for a decision. Note that the filing of the petition will not operate to stay any period of reply that may be running against the application.

Questions regarding petitions to revive should be directed to the Office of Petitions at (571) 272-3282.

[1] Note, for purpose of this notice, that "foreign filing" means "filing an application directed to the same invention in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing".

/jlburke/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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	11135875
Filing Date	24-May-2005
First Named Inventor	Charles Woodson
Art Unit	2617
Examiner Name	HUY HO
Attorney Docket Number	3215
Title	METHOD AND SYSTEM FOR SELECTIVE APPLICATION OF CELLULAR-PBX INTEGRATION SERVICE

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	/Lawrence H. Aaronson/
Name	Lawrence H. Aaronson
Registration Number	35818

UNITED STATES PATENT AND TRADEMARK OFFICE

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Decision Date : June 20,2011

In re Application of :

Charles Woodson

DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 11135875

Filed : 24-May-2005

Attorney Docket No : 3215

This is an electronic decision on the petition under 37 CFR 1.313(c)(2), filed June 20,2011 , 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

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MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

In re Application of	:	DECISION ON APPLICATION
XUEMIN (SHERMAN) CHEN	:	FOR PATENT TERM ADJUSTMENT
Application No. 11/135,906	:	
Filed: May 24, 2005	:	
Atty Docket No. 16571US02	:	

This is a decision on the "APPLICATION FOR RECONSIDERATION OF THE DETERMINATION OF PATENT TERM ADJUSTMENT UNDER 35 U.S.C. 154(b) ACCOMPANYING THE NOTICE OF ALLOWANCE (37 C.F.R. 1.705)" filed October 5, 2011. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from 925 days to 1032 days.

The request reconsideration of the patent term adjustment at the time of the mailing of the notice of allowance is DISMISSED.

On September 9, 2011, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 925 days.

On October 5, 2011, applicants timely submitted the present application for patent term adjustment[1]. Applicants request that the initial Determination of Patent Term Adjustment be corrected from 925 days to 1032 days. Applicants aver that the Office erred in failing to calculate an adjustment of 107 days pursuant to 37 CFR 1.702(e). Specifically, applicants assert:

[1] PALM records show that the present petition precedes payment of the Issue Fee.

> After a notice of appeal of the final rejection to the Board of Patent Appeals and Interferences was filed on September 2, 2010, but before any decision was issued by the Board of Patent Appeals and Interference, the Office reopened prosecution and issued an Office action under 35 U.S.C. 132 or notice of allowance under 35 U.S.C. 151 on December 17, 2010. The patent term adjustment on this ground should be the difference between the two dates stated above, plus one day, which is 107 days.

Petition, 10/05/11, p. 3. Applicants acknowledge that the current rule, 37 CFR 1.703(b)(4), does not explicitly provide a patent term adjustment in this situation. However, applicants cite to the proposed rules that would allow for a patent term adjustment under these circumstances. *See Revision of Patent Term Extension and Adjustment Provisions Relating to Appellate Review and Information Disclosure Statements, 76 Fed. Reg.* 18990 (April 6, 2011).

The Office has carefully considered applicants' arguments. However, as applicants' acknowledge, the current statute and rules of practice do not provide for the requested adjustment of the patent term. Therefore, the petition must be dismissed at this time.

To the extent that the final rule on *Revision of Patent Term Extension and Adjustment Provisions Relating to Appellate Review* revises the interpretation of appellate review applied in this decision, applicants are given **one (1) month or thirty (30) days**, whichever is longer, from the date of the final rule to file a request for reconsideration. No extensions of time will be granted under 37 CFR 1.136.

In view thereof, no change in the initial determination of patent term adjustment is merited. The patent term adjustment at the time of the mailing of the notice of allowance remains 925 days.

The Office acknowledges the $200.00 fee set forth in 37 CFR 1.18(e).

Applicants are reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) and 1.702(b) and any applicant delays

under 37 CFR 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicants will be notified of the revised patent term adjustment to be indicated on the patent in the Issue Notification letter that is mailed to applicant approximately three weeks prior to issuance.

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this 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

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WONG, CABELLO, LUTSCH, RUTHERFORD & BRUCCULERI, L.L.P.
20333 SH 249 6TH FLOOR
HOUSTON TX 77070

MAILED
OCT 18 2011
OFFICE OF PETITIONS

In re Patent No. 7,746,321 :
Issued: June 29, 2010 :
Application No. 11/135,911 : ON PETITION
Filed: May 24, 2005 :
Attorney Docket No. 074-0002US :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed September 21, 2011.

On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No.

MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

MAILED

OCT 19 2010

OFFICE OF PETITIONS

In re Application of	:	
Chen et al.	:	DECISION
Application No. 11/136,027	:	ON APPLICATION FOR
Filed: May 23, 2005	:	PATENT TERM ADJUSTMENT
Atty Docket No. 16579US01	:	
Title: METHOD AND APPARATUS	:	
FOR CONSTRUCTING AN ACCESS	:	
CONTROL MATRIX FOR A SET-TOP	:	
BOX SECURITY PROCESSOR	:	

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 September 29, 2010. Applicant submits that the correct patent term adjustment to be indicated on the patent is one thousand, six hundred and thirty-three (1633) days, not nine hundred and eighty-nine (989) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of

issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, Applicant is advised that he may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, Applicant must timely file an application for patent term adjustment prior to the payment of the issue fee.[1]

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

---

[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the § 1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11/18/10

TO SPE OF : ART UNIT 3661

SUBJECT : Request for Certificate of Correction for Appl. No.: 11136072 Patent No.: 7359777

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (C of C)
Randolph Square 9D40-D
Palm Location 7580

You can fax the Directors/SPE response to 571-270-9990

Lamonte Newsome
Certificates of Correction Branch
571-272-3421

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: NO NEW MATTER introduced. GAT

TOM BLACK
SPE

3661
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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GALASSO & ASSOCIATES, LP
P.O. BOX 26503
Austin TX 78755-0503

MAILED

DEC 03 2010

OFFICE OF PETITIONS

In re Patent No. 7,359,777
Issue Date: April 15, 2008
Application No. 11/136,072
Filed: May 24, 2005
Attorney Docket No. PNTX:005USC3

: DECISION GRANTING PETITION
: UNDER 37 CFR 1.78(a)(3) AND
: REQUEST FOR CERTIFICATE OF
: CORRECTION
:

This is a decision on the petition, filed November 16, 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 Applications No. 10/838,042, filed May 3, 2004, 10/437,810, filed May 14, 2003 and 09/821,842, filed March 28, 2001, by way of a certificate of correction. This is also a decision on the petition to expedite consideration under 37 CFR 1.182.

The petition under 37 CFR 1.182 is **granted**.

The petition under 37 CFR 1.78(a)(3) 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 applications 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 applications as required by 37 CFR 1.78(a)(2)(i) and 1.78(a)(2)(iii).

The instant application was filed May 24, 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 applications, 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 applications will be made by the Examiner prior to the mailing of a certificate of correction.

As authorized, the petition fee, surcharge fee, and the certificate of correction fee, will be charged to petitioner's Deposit Account.

Any inquiries concerning this decision may be directed to Carl Friedman at (571) 272-6842.

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).

David Bucci
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

Cc: Hershkovitz & Associates, LLC
2845 Duke Street
Alexandria, VA 22314

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/136,072	05/24/2005	3661	1465	PNTX:005USC3	24	8

CONFIRMATION NO. 3987

GALASSO & ASSOCIATES, LP
P.O. BOX 26503
Austin, TX 78755-0503

CORRECTED FILING RECEIPT

OC000000044794449

Date Mailed: 12/03/2010

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

W. Bradley Betters, Moon Township, PA;
Randell W. Livingston JR., Round Rock, TX;
Bob W. Whetsell, Georgetown, TX;

Power of Attorney: The patent practitioners associated with Customer Number 37832

Domestic Priority data as claimed by applicant

This application is a CON of 10/838,042 05/03/2004 PAT 6,959,236
which is a CON of 10/437,810 05/14/2003 PAT 6,732,027
which is a CON of 09/821,842 03/28/2001 PAT 6,567,729

Foreign Applications

If Required, Foreign Filing License Granted: 06/28/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/136,072**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

SYSTEM AND METHOD OF ANALYZING AIRCRAFT REMOVAL DATA FOR PREVENTATIVE MAINTENANCE

Preliminary Class

701

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).

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	11136116
Filing Date	24-May-2005
First Named Inventor	Mark Bales
Art Unit	2617
Examiner Name	BABAR SARWAR
Attorney Docket Number	3153
Title	METHOD AND SYSTEM FOR SELECTIVE APPLICATION OF CELLULAR-PBX INTEGRATION SERVICE

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	/Lawrence H. Aaronson/
Name	Lawrence H. Aaronson
Registration Number	35818

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Decision Date : June 20,2011

In re Application of :

Mark Bales

DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 11136116

Filed : 24-May-2005

Attorney Docket No : 3153

This is an electronic decision on the petition under 37 CFR 1.313(c)(2), filed June 20,2011 , 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

UNITED STATES 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.

CHRISTOPHER C. WINSLADE
MCANDREWS, HELD & MALLOY, LTD.
34th Floor
500 West Madison St.
Chicago IL 60661

MAILED
FEB 14 2011
OFFICE OF PETITIONS

In re Application of	:	
Chen et al.	:	DECISION
Application No. 11/136,175	:	ON APPLICATION FOR
Filed: May 23, 2005	:	PATENT TERM ADJUSTMENT
Atty Docket No. 16580US01	:	
Title: METHOD AND APPARATUS	:	
FOR SECURITY POLICY AND	:	
ENFORCING MECHANISM FOR A	:	
SET-TOP BOX SECURITY	:	
PROCESSOR	:	

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 7, 2011. Applicants submit that the correct patent term adjustment to be indicated on the patent is one thousand, two hundred and fifty-five (1255) days, not nine hundred and fifty (950) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction partly on the basis that the Office will take in excess of three years to issue this patent. In addition, Applicants contend that one period of applicant delay was miscalculated and should not have resulted in a reduction.

To the extent that the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, Applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, 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

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 request is **DISMISSED**.

A Notice of Allowance and Fees Due was mailed on October 7, 2010, concurrently with a Determination of Patent Term Adjustment under 35 U.S.C. 154(b), which indicated that the "Patent Term Adjustment to date is 950 day(s)." The present application for patent term adjustment was timely filed[2] on or before payment of the issue fee.

Applicants argue that the two-day reduction that is associated with the filing of a Request for Continued Examination (RCE) in response to the mailing of a Notice of Allowance and Fees Due on June 25, 2010 is improper, and that no reduction is warranted.

The record supports a conclusion that any patent issuing from this patent is subject to a terminal disclaimer.

37 C.F.R. § 1.704(b) sets forth, in pertinent part:

> an applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of three months that are taken to reply to any notice or action by the Office making any rejection, objection, argument, or other request, measuring such three-month period from the date the notice or action was mailed or given to the applicant, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date that is three months after the date of mailing or transmission of the Office communication notifying the applicant of the rejection, objection, argument, or other request and ending on the date the reply was filed. The period, or shortened statutory period, for reply that is set in the Office action or notice has no effect on the three-month period set forth in this paragraph.

A Notice of Allowance and Fees Due was mailed on June 25, 2010, and a response was not received until September 27, 2010, which

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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 submitted concurrently with this petition on January 7, 2011.

is three months and two days later. As such, a reduction of two days was assessed, pursuant to 37 C.F.R. § 1.704(b). Applicants argue that this is improper, that no reduction was warranted, and have cited to 37 CFR § 1.7(a). It is noted that September 25, 2010 fell on a Saturday, and as such, September 27, 2010 was the next succeeding business day. However, Applicants will note that 35 U.S.C. § 154(b)(2)(C)(ii)[3] does not require that a reply be filed in the Office within its three (3) month grace period, but simply specifies that there is a patent term adjustment reduction if a reply is not filed within this three (3) month period. Therefore, the "carry-over" provisions of 35 U.S.C. § 21(b)[4] does not apply to the three (3) month period in 35 U.S.C. § 154(b)(2)(C)(ii).

The Office acknowledges submission of the $200.00 fee set forth in 37 C.F.R. § 1.18(e). No additional fees are required.

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 C.F.R. § 1.705(d) and must include payment of the required fee under 37 C.F.R. § 1.18(e).

Applicants are reminded that any delays by the Office pursuant to 37 C.F.R. §§ 1.702(a)(4) and 1.702(b) and any applicant delays under 37 C.F.R. § 1.704(c)(10) will be calculated at the time of the issuance of the patent and Applicants will be notified of the revised patent term adjustment to be indicated on the patent in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

The Office of Data Management has been advised of this decision. This matter is being referred to the Office of Data Management for issuance of the patent.

---

[3] "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."

[4] "When the day, or the last day, for taking any action or paying any fee in the United States Patent and Trademark Office falls on Saturday, Sunday, or a Federal holiday within the District of Columbia, the action may be taken, or fee paid, on the next succeeding secular or business day."

Telephone inquiries regarding this decision should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

QUARLES & BRADY LLP
411 E. WISCONSIN AVENUE
SUITE 2040
MILWAUKEE, WI 53202-4497

RECEIVED
OCT 12 2010
OFFICE OF PETITIONS

In re Patent No. 7,124,977 :
Issue Date: October 24, 2006 :
Application No. 11/136,184 : NOTICE
Filed: May 24, 2005 :
Attorney Docket No. 127872.00013/DIV

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Inquiries related to this communication should be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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SEP 15 2010

OFFICE OF PETITIONS

QUARLES & BRADY LLP
411 E. WISCONSIN AVENUE
SUITE 2040
MILWAUKEE, WI 53202-4497

In re Patent No. 7,159,816	:	
Issue Date: January 9, 2007	:	
Application No. 11/136,196	:	NOTICE
Filed: May 24, 2005	:	
Attorney Docket No. 127872.00013/DIV2	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-1642.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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SEP 16 2010

OFFICE OF PETITIONS

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO IL 60610

In re Application of	:	DECISION ON
Tadamitsu Sato	:	SECOND REQUEST
Patent Number: 7,593,001	:	FOR RECONSIDERATION OF
Issue Date: 09/22/2009	:	PATENT TERM ADJUSTMENT
Application No. 11/136579	:	and
Filing or 371(c) Date: 05/23/2005	:	NOTICE OF INTENT TO ISSUE
Attorney Docket Number: 9281-5077	:	CERTIFICATE OF CORRECTION

This is a decision on the renewed petition filed on May 21, 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 seven hundred fifty-seven (757) 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-seven (757) days is **GRANTED**.

On April 13, 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 757 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 965 days.

The Office notes that the decision of April 21, 2010, was issued in error as it accorded patentee 208 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 April 13, 2010 correctly determined the patent term adjustment of 757 days.

The Office has determined that the patent term adjustment for the above-identified patent is **757 days**. The 208 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 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-seven (757) 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 : 7,593,001 B2

DATED : **September 22, 2009**

INVENTOR(S) : Sato

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 965 days.

Delete the phrase "by 965 days" and insert – by 757 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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CAREY, RODRIGUEZ, GREENBERG & PAUL, LLP
STEVEN M. GREENBERG
950 PENINSULA CORPORATE CIRCLE
SUITE 2022
BOCA RATON, FL 33487

MAILED
JUN 08 2011
OFFICE OF PETITIONS

In re Application of	:	
Sheldon Y. Chan, et al.	:	
Application No. 11/136,643	:	DECISION ON PETITION
Filed: May 24, 2005	:	
Attorney Docket No. LOT920050042US1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 4, 2011, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of April 14, 2009. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(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 15, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal; (2) the petition fee of $1620; and (3) a proper statement of unintentional delay.

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 2192 for the processing of the Notice of Appeal and the Appeal Brief in accordance with this decision.

April M. Wise
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110624

DATE :

TO SPE OF : ART UNIT 3657

SUBJECT : Request for Certificate of Correction on Patent No.: 7678001

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 SICONOLFI/
Supervisory Patent Examiner.Art Unit 3657

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/137,242	05/24/2005	Christy Wilson	05724/286234	6641

826 7590 05/27/2011
ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

EXAMINER
FUELLING, MICHAEL

ART UNIT	PAPER NUMBER
3626	

MAIL DATE	DELIVERY MODE
05/27/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAY 27 2011

Alston & Bird LLP
Bank of America Plaza
101 South Tryon Street, Suite 4000
Charlotte, NC 28280-4000

In re application of Wilson et al. Application No. 11/137,242 Filed: May 24, 2005 For: VISION CARE AND PROTECTION POLICY	: : : : : :	**DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION)**

This is in response to the petition filed on May 24, 2005 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII. The delay in treating this petition is regretted.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) 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; and (E) a detailed discussion of how the claimed subject matter is patentable over the references.

Since all of the requirements for special status under MPEP § 708.02 VIII have been met, the petition is **GRANTED**.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED**.

Any inquiry regarding this decision should be directed to Teri Luu at (571) 272-7045.

/Teri P. Luu/
Teri P. Luu
Quality Assurance Specialist
Technology Center 3600

TL/tl: 05/26/11

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 10/7/10 **Paper No.:** ——

TO SPE OF : ART UNIT 1626

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/137283 Patent No.: 7442712 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:

The requested for certificate of correction filed on 09/22/2010 has been approved. R.S.

/Brandon Fetterolf/ SPE AU 1628

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ROSATI
650 PAGE MILL ROAD
PALO ALTO CA 94304-1050

MAILED

SEP 2 0 2010

OFFICE OF PETITIONS

In re Patent No. 7,622,296	: DECISION ON RENEWED
Joseph, et al.	: REQUEST FOR RECONSIDERATION
Application No. 11/137,304	: of PATENT TERM ADJUSTMENT
Issue Date: November 24, 2009	: and
Filed: May 24, 2005	: NOTICE OF INTENT TO ISSUE
Attorney Docket No. 29434-702.204	: CERTIFICATE OF CORRECTION

This is a decision on the petition under 37 CFR 1.705(d), filed January 21, 2010, requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand, one hundred twenty-nine (1129) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand one hundred twenty-nine (1129)days is **GRANTED to the extent indicated herein**.

The amount of days over 36 months from the filing date of the application until the issue date of the patent was not included in the "B" delay period. The over three year period began on May 25, 2008 and ended on November 24, 2009 (the patent issue date), and is 550 days. See 35 U.S.C. 154(b)(1)(B)(i). As such, the "B" delay period is 550 days. In addition, the Office was accorded Office delay under 37 CFR 1.702(a)(1) of 827 days. As a result, total Office delay was 1377 days, minus 157 days of overlap. One instance of applicant delay occurred. Applicants were accorded ninety (90) days of applicant delay pursuant to 37 CFR 1.704(b).

In view of the above, the patent term adjustment is 1130 days, not 1129 days.

The $200.00 fee set forth in 37 CFR 1.18(e) has been charged to Deposit Account No. 23-2415, as authorized.

The application is being forwarded to the Certificate of Corrections Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand, one hundred thirty (1130)** 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 : 7,622,296 B2

DATED : **November 24, 2009**

INVENTOR(S) : Joseph, 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 737 days.

Delete the phrase "by 737 days" and insert – by 1130 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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SAP / FINNEGAN, HENDERSON LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

MAILED

JUN 17 2011

OFFICE OF PETITIONS

In re Application of	:	
Bernet, et al.	:	
Application No. 11/137,531	:	DECISION
Filed/Deposited: 26 May, 2005	:	
Attorney Docket No. 07781.0240-00	:	

This is a decision on the papers filed on 20 May, 2011, considered as a petition pursuant to 37 C.F.R. §1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

NOTE:

Petitioner recites an averment that "Applicants' representative and the Examiner agreed that the Notice [of Abandonment] was mistakenly mailed, and the Examiner would take proper actions to revive the application."

The statement appeared in a paper submitted on 15 April, 2011, by Petitioner and styled "Substance of Examiner Interview." The paper further stated "Applicants anticipate receiving an Office Action or a Notice of Allowance as a result of the Reply filed on November 20, 2010."

Petitioner (under limited admission) and Petitioner's mentor, who must be registered to practice before the Office, must know that the 15 April, 2011, paper:

- Failed to identify the parties to the averred interview; and
- Was erroneous in the statement that the Examiner had jurisdiction over an application after it was Noticed as abandoned and the Applicants had a right to expect not only the Examiner's action to remove the abandonment but also to act on the application notwithstanding its abandoned state.

Petitioner's mentor, as one registered to practice before the Office is aware that once an application is Noticed as abandoned, Petitioner bears the burden to act either to seek

> withdrawal of the holding of abandonment pursuant to pursuant to 37 C.F.R. §1.181 or to seek revival pursuant to 37 C.F.R. §1.137.

The petition pursuant to 37 C.F.R. §1.181 is **GRANTED**.

As to the Request to Withdraw
the Holding of Abandonment

Petitioners always are directed to the Commentary at MPEP §711.03(c)(I) for guidance as to the proper showing requirements for relief pursuant to 37 C.F.R. §1.181.

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the non-final Office action mailed on 30 August, 2010, with reply due absent extension of time on or before 30 November, 2010.

The application went abandoned by operation of law after midnight 30 November, 2010.

The Office mailed the Notice of Abandonment on 30 March, 2011.

On 20 May, 2011, Petitioner filed a request to withdraw the holding of abandonment pursuant to 37 C.F.R. §1.181, and averred timely reply, however, while Petitioner averred attachment of a copy of the Electronic Acknowledgment Receipt (2 pages) and a copy of the papers (amendment (7 pages)) averred to have been filed on 30 November, 2010, those materials were not evident as "Active" submissions with the petition, but do appear as "Closed." Further, the Office does note the presence in the Image File Wrapper of the Electronic Acknowledgment Receipt (2 pages) and a copy of the papers (amendment (7 pages)) deposited on 30 November, 2010.

Thus, Petitioner has sought to satisfy the showing under the Rule.

With regard to Petitioner's request to withdraw the holding of abandonment pursuant to 37 C.F.R. §1.181, the guidance in the Commentary at MPEP §711.03(c)(I) provides in pertinent part as to timely fling:

***

> 37 C.F.R. §1.10(c) through §1.10(e) and §1.10(g) set forth procedures for petitioning the Director of the USPTO to accord a filing date to correspondence as of the date of deposit

of the correspondence as "Express Mail." A petition to withdraw the holding of abandonment relying upon a timely reply placed in "Express Mail" must include an appropriate petition under 37 C.F.R. §1.10(c), (d), (e), or (g) (see MPEP §513). When a paper is shown to have been mailed to the Office using the "Express Mail" procedures, the paper must be entered in PALM with the "Express Mail" date.

Similarly, applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides *prima facie* evidence that the reply was timely filed. See MPEP §503. For example, if the application has been held abandoned for failure to file a reply to a first Office action, and applicant has a postcard receipt showing that an amendment was timely filed in response to the Office action, then the holding of abandonment should be withdrawn upon the filing of a petition to withdraw the holding of abandonment. When the reply is shown to have been timely filed based on a postcard receipt, the reply must be entered into PALM using the date of receipt of the reply as shown on the post card receipt.

Where a certificate of mailing under 37 C.F.R. §1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 C.F.R. 1.8(b) and MPEP §512. As stated in 37 C.F.R. §1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is shown to have been timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 C.F.R. §1.8).

37 C.F.R. §1.8(b) also permits applicant to notify the Office of a previous mailing or transmission of correspondence and submit a statement under 37 C.F.R. §1.8(b)(3) accompanied by a duplicate copy of the correspondence when a reasonable amount of time (e.g., more than one month) has elapsed from the time of mailing or transmitting of the correspondence. Applicant does not have to wait until the application becomes abandoned before notifying the Office of the previous mailing or transmission of the correspondence. Applicant should check the private Patent Application Information Retrieval (PAIR) system for the status of the correspondence before notifying the Office. See MPEP §512. [1]

***

[1] *See*: MPEP §711.03(c) (I)(B).

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (*see*: 37 C.F.R. §1.181(f)), and those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[2]

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

STATUTES, REGULATIONS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994). And the regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application.[3],[4]

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

---

[2] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on Petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

[3] 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).

[4] The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition. (Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.) Delays in responding properly raise the question whether delays are unavoidable. Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) And the Petitioner must be diligent in attending to the matter. Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care. (By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.))

> them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[5]

Allegations as to the Request to
Withdraw the Holding of Abandonment

The guidance in the Commentary at MPEP §711.03(c)(I) specifies the showing required and how it is to be made and supported.

Petitioner appears to have made the showing required.

CONCLUSION

Accordingly, the petition as considered under 37 C.F.R. §1.181 is **granted**, and the 30 March, 2011, Notice of Abandonment hereby is **vacated**.

The instant application is released to the Technology Center/AU 3627 for further processing in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the TC/AU in response to this decision. It is noted that all inquiries with regard to that change in status need be directed to the TC/AU where that change of status must be effected—that does not occur in the Office of Petitions.

[5] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[6]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[6] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

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.
11/137,534	05/26/2005	Kwang-Soon Ahn	61610622US	7457

7590 04/08/2011
H.C. PARK & ASSOCIATES, PLC
8500 LEESBURG PIKE
SUITE 7500
VIENNA, VA 22182

EXAMINER
MOWLA, GOLAM

ART UNIT	PAPER NUMBER
1723	

NOTIFICATION DATE	DELIVERY MODE
04/08/2011	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

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April 6, 2011

H.C. PARK & ASSOCIATES, PLC
8500 LEESBURG PIKE
SUITE 7500
VIENNA VA 22182

In re Application of	:	
Ahn, Kwang-Soon, et al	:	**DECISION ON PETITION**
Application No. 11/137,534	:	
Filed: 05/26/2005	:	***ACCEPTANCE OF COLOR***
Attorney Docket No.61610622US	:	***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) August 30, 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

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LaHive & Cockfield
Floor 30, Suite 300
One Post Office Square
Boston, MA 02109

MAILED

DEC 20 2010

OFFICE OF PETITIONS

In re Patent No. 7,423,144	:
Japtap et al.	: DECISION UPON REMAND AND
Issue Date: September 09, 2008	: RECONSIDERATION OF
Application No. 11/137,632	: PATENT TERM ADJUSTMENT
Filed: May 25, 2005	: AND NOTICE OF INTENT
Attorney Docket No. ITJ-007	: TO ISSUE CERTIFICATE OF
Title: Purine Derivatives as	: CORRECTION
Adenosine A1 Receptor Agonists	:
and Methods of Use 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).

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 two hundred and forty-two(242) 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 two hundred and forty-two (242) 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 : 7,423,144

DATED : **September 09, 2008** **DRAFT**

INVENTOR(S) : Japtap 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 150 days

Delete the phrase "by 150 days" and insert -- by 242 days--

Day : Monday
Date: 12/20/2010

PALM INTRANET

Time: 12:39:46

PTA Calculations for Application: 11/137632			
Application Filing Date:	05/25/2005	PTO Delay (PTO):	182
Issue Date of Patent:	09/09/2008	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	32
Post-Issue Petitions:	0	Total PTA (days):	242
PTO Delay Adjustment:	92		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
78	12/20/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	92		
70.5	08/20/2008	PTA 36 MONTHS			
70	09/09/2008	PATENT ISSUE DATE USED IN PTA CALCULATION			
69	08/11/2008	EXPORT TO FINAL DATA CAPTURE			
68	08/07/2008	FINISHED INITIAL DATA CAPTURE			
67	08/08/2008	DISPATCH TO FDC			
66	07/23/2008	APPLICATION IS CONSIDERED READY FOR ISSUE			
65	07/22/2008	ISSUE FEE PAYMENT VERIFIED			
64	07/22/2008	ISSUE FEE PAYMENT RECEIVED			
63	06/27/2008	EXPORT TO INITIAL DATA CAPTURE			
62	06/23/2008	MAIL NOTICE OF ALLOWANCE	15		54
61	06/20/2008	ISSUE REVISION COMPLETED			
60	06/20/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
59	06/20/2008	CASE DOCKETED TO EXAMINER IN GAU			
58	06/20/2008	DOCUMENT VERIFICATION			
57	06/20/2008	NOTICE OF ALLOWABILITY			
55	05/01/2008	DATE FORWARDED TO EXAMINER			
54	02/08/2008	RESPONSE AFTER NON-FINAL ACTION			
53	03/11/2008	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
52	03/03/2008	CORRESPONDENCE ADDRESS CHANGE			
51	11/09/2007	ELECTRONIC REVIEW			
50	11/08/2007	EMAIL NOTIFICATION			
49	11/08/2007	MAIL NON-FINAL REJECTION			

48	10/31/2007	NON-FINAL REJECTION			
47	08/23/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
46	09/10/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
43	09/10/2007	REFERENCE CAPTURE ON IDS			
42	09/10/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	40
41	09/18/2007	DATE FORWARDED TO EXAMINER			
40	09/10/2007	RESPONSE AFTER NON-FINAL ACTION		32	32
39	09/10/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
38	09/10/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
37	08/23/2007	REFERENCE CAPTURE ON IDS			
36	08/23/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
35	08/23/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
34	05/11/2007	ELECTRONIC REVIEW			
33	05/09/2007	EMAIL NOTIFICATION			
32	05/09/2007	MAIL NON-FINAL REJECTION			
31	05/03/2007	NON-FINAL REJECTION			
30	03/31/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
29	06/29/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
28	04/04/2007	DATE FORWARDED TO EXAMINER			
27	03/20/2007	RESPONSE TO ELECTION / RESTRICTION FILED			
26	03/20/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
25	01/11/2007	ELECTRONIC REVIEW			
24	01/08/2007	EMAIL NOTIFICATION			
23	01/08/2007	MAIL RESTRICTION REQUIREMENT	167		-1
22	01/03/2007	REQUIREMENT FOR RESTRICTION / ELECTION			
21	12/20/2006	CASE DOCKETED TO EXAMINER IN GAU			
20	11/19/2006	CASE DOCKETED TO EXAMINER IN GAU			
19	10/31/2006	CASE DOCKETED TO EXAMINER IN GAU			
18	08/24/2006	CASE DOCKETED TO EXAMINER IN GAU			
17	08/24/2006	CASE DOCKETED TO EXAMINER IN GAU			
16	06/29/2006	REFERENCE CAPTURE ON IDS			

15.7	06/29/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
15	06/29/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
14	03/31/2006	REFERENCE CAPTURE ON IDS			
13.7	03/31/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
13	03/31/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
12	02/01/2006	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
11	02/01/2006	CASE DOCKETED TO EXAMINER IN GAU			
10	12/02/2005	PRELIMINARY AMENDMENT			
9	09/12/2005	APPLICATION DISPATCHED FROM OIPE			
8	09/12/2005	APPLICATION IS NOW COMPLETE			
7	08/30/2005	ADDITIONAL APPLICATION FILING FEES			
6	08/30/2005	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
5	06/30/2005	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
4	06/25/2005	CLEARED BY L&R (LARS)			
3	06/08/2005	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			
2	06/04/2005	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	05/25/2005	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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COOLEY GODWARD KRONISH LLP
ATTN: Patent Group
Suite 500
1200-19th Street NW
Washington DC 20036-2402

MAILED

APR 25 2011

OFFICE OF PETITIONS

In re Application of	:	
Ju Wu, et al.	:	
Application No. 11/137,684	:	DECISION ON PETITION
Filed: May 24, 2005	:	TO WITHDRAW
Attorney Docket No. BOBJ-012/02US 304661-2103	:	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 22, 2011.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to Cooley Godward Kronish LLP has been changed in the patent application on October 31, 2008. 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: **SAP GLOBAL c/o Cooley Godward Kronish LLP**
777 6th Street NW, Suite 1100
Washington, DC 20001

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Margaret Anderson
106 E. 6th Street, Suite 900
Austin TX 78701

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MAR 14 2011

OFFICE OF PETITIONS

In re Application of	:	
ALEXANDER J. COHEN, ET AL.	:	
Application No. 11/137,687	:	DECISION ON PETITION
Filed: May 25, 2005	:	TO WITHDRAW
Attorney Docket No. **QQ1-0119US**	:	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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MAILED
APR 29 2011
OFFICE OF PETITIONS

LEE & HAYES, PLLC
601 W RIVERSIDE, SUITE 1400
SPOKANE, WA 99201

In re Application of
Alexander J. COHEN, et *al.*
Application No. 11/137,694
Filed: May 25, 2005
Attorney Docket No. **QQ1-0170US**

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 January 25, 2011.

The request is **NOT APPROVED**.

The request to withdraw as attorney/agent of record and change of correspondence address is hereby not accepted. Petitioner has not complied with current USPTO requirements, set forth in 37 CFR 10.40 concerning Request for Withdrawal as Attorney and Change of Correspondence Address.

Petitioner has not properly submitted forwarding correspondence address information for the application.

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 Office will no longer change the correspondence address to that of a new practitioner unless the Request is accompanied by a power of attorney to a new practitioner (e.g., Form PTO/SB/82). All future communications from the Office will be directed to the above-listed address until otherwise properly notified by the applicant or a proper change of correspondence address has been submitted.

All future communications from the Office will be directed to the above-listed address until otherwise properly notified by the applicant.

Inquires concerning either the examination or status of the application should be directed to the Technology Center at (571) 272-2600.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7253.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

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Margaret Anderson
106 E. 6th Street, Suite 900
Austin TX 78701

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MAR 14 2011

OFFICE OF PETITIONS

In re Application of	:	
ALEXANDER J. COHNE, ET AL.	:	
Application No. 11/137,716	:	DECISION ON PETITION
Filed: May 25, 2005	:	TO WITHDRAW
Attorney Docket No. **QQ1-0147US**	:	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

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P.O. DRAWER 800889
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DEC 09 2011
OFFICE OF PETITIONS

In re Application of:	:
Purva R. Rajkotia	: ON REQUEST FOR
Application No. 11/138039	: RECONSIDERATION OF
Filing or 371(c) Date: 05/26/2005	: PATENT TERM ADJUSTMENT
Atty. Docket No.:	:
2004.10.002.WS0	:

This letter is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(b)," filed November 16, 2011. Applicants submit that the correct patent term adjustment should be 1389 days, not 1352 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 an adjustment of 37 days pursuant to 37 CFR 1.704(a)(3).

The application for patent term adjustment is **GRANTED**.

The Office has updated the PALM and PAIR screens to reflect that the Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is one thousand three hundred eighty-nine (**1389**) days. A copy of the updated PALM screen, showing the correct determination, is enclosed.

On August 17, 2011, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 1352 days.

On November 16, 2011, applicant timely submitted the present application for patent term adjustment[1]. Applicants assert that the Office erred in failing to calculate an adjustment of 37 days pursuant to 37 CFR 1.704(a)(3).

Applicant's argument has been carefully considered. A review of Office records confirms that a Decision of the Board of Patent Appeals and Interferences ("BOARD") was mailed on March 11, 2011. The Office mailed a Notice of Allowance and Issue Fee Due on August 17, 2011, four

[1] Office records show that the Issue Fee payment was received in the Office on February 15, 2011.

months and 37 days after the mail date of the Decision of the Board. In view thereof, a reduction of 37 days, beginning on the day after the date that is four months after the date of a final decision by the Board of Patent Appeals and Interferences, and ending on the mail date of the notice of allowance, is appropriate. Accord, 37 CFR 1.703(a)(5).

In view thereof, the correct Patent Term Adjustment at the time of the mailing of the Notice of Allowance is one thousand three hundred eighty-nine **(1389)** days, subject to any terminal disclaimer.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Publications Division for issuance of a patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3232.

/DLW/

Derek L. Woods
Attorney
Office of Petitions

Enclosure: Copy of Adjustment PAIR Calculations

Patent Term Adjustments

PTA/PTE Information | Patent Term Adjustment | Patent Term Extension

Application Number*: 11138039 Search | Explanation of PTA Calculation | Explanation of PTE Calculation

PTA Calculations for Application: 11138039

Application Filing Date	05/26/2005	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	1390
A Delays	86	PTO Manual Adjustment	37
B Delays	0	Applicant Delay (APPL)	38
C Delays	1304	Total PTA (days)	1389

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
72	12/06/2011		P028	Adjustment of PTA Calculation by PTO	37	0	
63	08/17/2011		MN/=.	Mail Notice of Allowance		0	
62	08/12/2011		OAR	Office Action Review		0	
61	08/12/2011		OAR	Office Action Review		0	
59	08/12/2011		OAR	Office Action Review		0	
58	08/12/2011		OAR	Office Action Review		0	
57	06/27/2011		OAR	Office Action Review		0	
56	06/27/2011		OAR	Office Action Review		0	
55	06/27/2011		IREV	Issue Revision Completed		0	
54	06/27/2011		DVER	Document Verification		0	
53	06/27/2011		N/=.	Notice of Allowance Data Verification Completed		0	
52	06/27/2011		DOCK	Case Docketed to Examiner in GAU		0	
51	06/22/2011		EX.R	Reasons for Allowance		0	
50	06/22/2011		CNTA	Allowability Notice		0	
48	03/11/2011		ELC_RVW	Electronic Review		0	
47	03/11/2011		EML_NTF	Email Notification		0	
46	03/11/2011	08/16/2007	MAPDR	Mail BPAI Decision on Appeal - Reversed	1304	24	
45	03/09/2011		APDR	BPAI Decision - Examiner Reversed		0	
44	06/01/2010		INHY	case Inherited		0	
43	06/01/2010		DOCK	Case Docketed to Examiner in GAU		0	
42	04/21/2009		AP_DK_M	Docketing Notice Mailed to Appellant		0	
41	04/20/2009		APAS	Assignment of Appeal Number		0	
40	12/17/2008		APWD	Appeal Awaiting BPAI Docketing		0	
39	11/26/2008		MRBNE	Mail Reply Brief Noted by Examiner		0	
38	11/24/2008		RBNE	Reply Brief Noted by Examiner		0	
36	10/06/2008		FWDX	Date Forwarded to Examiner		0	
37	10/03/2008		APRB	Reply Brief Filed		0	
35	10/03/2008		APRB	Reply Brief Filed		0	
34	08/13/2008		PACC	Exam. Ans. Review Complete		0	
33	08/05/2008		MAPEA	Mail Examiner's Answer		0	
32	08/04/2008		APEA	Examiner's Answer to Appeal Brief		0	
31	05/19/2008		APBR	Appeal Brief Review Complete		0	
30	05/19/2008		FWDX	Date Forwarded to Examiner		0	
29	05/15/2008		AP.B	Appeal Brief Filed		0	
28	05/15/2008		XT/G	Request for Extension of Time - Granted		0	
27	03/12/2008		MAPCP	Mail Appeals conf. Proceed to BPAI		0	
26	03/11/2008		APCP	Pre-Appeals Conference Decision - Proceed to BPAI		0	
25	08/16/2007		AP.C	Request for Pre-Appeal Conference Filed		0	
24	08/16/2007	07/13/2007	N/AP	Notice of Appeal Filed	34	18	
23	08/16/2007		XT/G	Request for Extension of Time - Granted		0	
22	08/06/2007		MCTAV	Mail Advisory Action (PTOL - 303)		0	
21	08/04/2007		CTAV	Advisory Action (PTOL-303)		0	
20	07/13/2007		FWDX	Date Forwarded to Examiner		0	
19	06/13/2007		A.NE	Amendment after Final Rejection		0	

18	04/13/2007		MCTFR	Mail Final Rejection (PTOL - 326)			0
17	04/11/2007		CTFR	Final Rejection			0
16	02/05/2007		FWDX	Date Forwarded to Examiner			0
15	01/24/2007	01/20/2007	A...	Response after Non-Final Action		4	14
14	10/20/2006	07/26/2006	MCTNF	Mail Non-Final Rejection	86		0.5
13	10/16/2006		CTNF	Non-Final Rejection			0
12	09/20/2006		DOCK	Case Docketed to Examiner in GAU			0
11	08/16/2006		DOCK	Case Docketed to Examiner in GAU			0
10	04/22/2006		TSSCOMP	IFW TSS Processing by Tech Center Complete			0
9	04/03/2006		DOCK	Case Docketed to Examiner in GAU			0
8	09/23/2005		C614	New or Additional Drawing Filed			0
7	07/25/2005		C614	New or Additional Drawing Filed			0
6	07/25/2005		LTDR	Incoming Letter Pertaining to the Drawings			0
4	06/23/2005		COMP	Application Is Now Complete			0
5	06/22/2005		OIPE	Application Dispatched from OIPE			0
3	06/09/2005		L194	Cleared by OIPE CSR			0
2	06/04/2005		SCAN	IFW Scan & PACR Auto Security Review			0
1	05/26/2005		IEXX	Initial Exam Team nn			0
0.5	05/26/2005		EFILE	Filing date			0

Export to: Excel

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OFFICE OF PETITIONS

Townsend and Townsend and Crew LLP
Two Embarcadero Center
Eighth Floor
San Francisco CA 94111-3834

In re Application of	:	
Reiter, et al.	:	
Application No. 11/138,158	:	DECISION ON PETITION
Filed: May 26, 2005	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. VAC-6049(1)	:	

This is a decision on the petition under 37 CFR 1.78(a)(6), filed August 24, 2010, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed application data sheet.

The petition is **GRANTED.**

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The 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 of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 119(e) is accepted as being unintentionally delayed.

As to petitioners' contention that the desired claim was timely made, the claim having been set forth in a declaration filed August 8, 2005, petitioners are advised as follows: where a claim for priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is not included in the first sentence of the specification or in an ADS but does appear either in the oath or declaration or a transmittal letter

filed with the application and the Office notes the claim for priority, no petition will be required to accept a late claim for priority. This is because the application would have been scheduled for publication on the basis of the information concerning the claim submitted elsewhere in the application within the time period set forth in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). On the other hand, if the USPTO does not note the claim for priority to the prior-filed applications set forth in the oath or declaration or transmittal letter submitted with the application, a petition will be required to accept a late claim for priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6).[1] In the present case, the Office did not note the claim for priority to the prior-filed applications in the declaration filed August 8, 2005, as shown by its exclusion on the filing receipt.

As the Office did not note the claim, the instant petition and fee are required. The required fee has been charged to the authorized deposit account.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed provisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

The application is being forwarded to Technology Center AU 1651 for consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to the prior-filed provisional application.

Chris Bottorff
Supervisor
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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[1] *Note* MPEP 201.11 (III)(D) and 66 Federal Register 67087 at 67089 (Dec. 28, 2001), effective December 28, 2001.

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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
11/138,158	05/26/2005	1651	3830	VAC-6049(1)	70	4

CONFIRMATION NO. 8853

CORRECTED FILING RECEIPT

OC000000044612020

44183
Townsend and Townsend and Crew LLP
Two Embarcadero Center
Eighth Floor
San Francisco, CA 94111-3834

Date Mailed: 11/22/2010

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)

Manfred Reiter, Vienna, AUSTRIA;
Wolfgang Mundt, Vienna, AUSTRIA;
Noel Barrett, Klosterneuburg/Weidling, AUSTRIA;
Otfried Kistner, Vienna, AUSTRIA;

Power of Attorney:
Michael Schiffer--30215
Janice Guthrie--35170
Jane Choi--39980
Patrick Eagleman--44665

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/575,310 05/27/2004

Foreign Applications

If Required, Foreign Filing License Granted: 06/27/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/138,158**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Inactivation of a pathogen in a sample by a treatment with formalin and UV light

Preliminary Class

435

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

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The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

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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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3980 DEL MAR MEADOWS
SAN DIEGO CA 92130

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OCT 20 2010

OFFICE OF PETITIONS

In re Application of :
George Samuel Levy et al. :
Application No. 11/138,230 :
Filed: May 25, 2005 :
Attorney Docket No.: LEV050501 :

ON PETITION

This is a decision on the petition filed September 23, 2010 under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-Final Office Action mailed February 18, 2010. A shortened statutory period of three months was set for replying to the non-Final Office Action. No extensions of time having been requested within the extendable time allowed, this application became abandoned May 19, 2010. The instant petition and this decision precede the mailing of the Notice of Abandonment.

This matter is being referred to Technology Center 2129 for appropriate action on the amendment filed September 23, 2010.

Telephone inquiries concerning this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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[1]Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Director may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

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KENYON & KENYON LLP
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SUITE 700
WASHINGTON DC 20005

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APR 06 2012

OFFICE OF PETITIONS

In re Application of	:	
Michael Stephen ROBERTS et al.	:	
Application No. 11/138,262	:	RESPONSE TO REQUEST
Filed: May 27, 2005	:	
Attorney Docket No. 13164/0002	:	

This is in response to the request filed July 15, 2011, captioned as a petition to correct inventorship under 37 CFR 1.48(a).

The application currently remains abandoned. As the instant request has been filed after the application went abandoned, it will not be considered further at this time.

The address listed on the petition differs from the correspondence address of record. While a courtesy copy of this decision is being mailed to the address listed on 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) 272-4914.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

CC: KENYON & KENYON LLP
One Broadway
New York, NY 10004

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901 New York Avenue NW
Washington DC 20001-4413

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In re Patent No. 7,524,867	:
Lange et al.	: DECISION UPON REMAND AND
Issue Date: April 28, 2009	: RECONSIDERATION OF
Application No. 11/138,289	: PATENT TERM ADJUSTMENT
Filed: May 27, 2005	: AND NOTICE OF INTENT
Attorney Docket No. 01975.0072	: TO ISSUE CERTIFICATE OF
Title: Tetrasubstituted	: CORRECTION
Imidazole Derivatives as	:
Cannabinoid CB1 receptor	
modulators with High CB1/CB2	
Receptro Subtype selectivity	

This is a decision following remand from the District Court for the District of Columbia regarding the patent term adjustment indicated on the above-identified patent. The Court remanded this matter to the U.S. Patent and Trademark Office for recalculation of the patent term adjustment in accordance with the decision in Wyeth & Elan Pharma Int'l Ltd. v. Kappos, 591 F.3d 1364 (Fed. Cir. 2010).

The patent term adjustment indicated on the above-identified patent has been recalculated as directed by the Court. The term of the above-identified patent is extended or adjusted by five hundred and fifty (550) days.

The application is being forwarded to the Certificates Branch for issuance of a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by five hundred and fifty (550) days.

In a telephonic call with Ken Myers, the applicant and the USPTO agreed to a determination of five hundred and fifty (550) 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 : 7,724,867

DATED : **April 28, 2009** **DRAFT**

INVENTOR(S) : Lange 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 480 days

Delete the phrase "by 480 days" and insert – by 550 days--

Day : Monday
Date: 11/8/2010

PALM INTRANET

Time: 14:31:23

PTA Calculations for Application: 11/138289			
Application Filing Date:	05/27/2005	PTO Delay (PTO):	480
Issue Date of Patent:	04/28/2009	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	0
Post-Issue Petitions:	0	Total PTA (days):	550
PTO Delay Adjustment:	70		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
57	11/08/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	70		
50.5	04/08/2009	PTA 36 MONTHS			
50	04/28/2009	PATENT ISSUE DATE USED IN PTA CALCULATION			
49	03/12/2009	PETITION ENTERED			
48	03/17/2009	EXPORT TO FINAL DATA CAPTURE			
47	03/16/2009	DISPATCH TO FDC			
46	03/13/2009	APPLICATION IS CONSIDERED READY FOR ISSUE			
45	03/12/2009	ISSUE FEE PAYMENT VERIFIED			
44	03/12/2009	ISSUE FEE PAYMENT RECEIVED			
43	01/22/2009	FINISHED INITIAL DATA CAPTURE			
42	12/16/2008	EXPORT TO INITIAL DATA CAPTURE			
41	12/12/2008	MAIL NOTICE OF ALLOWANCE			
40	12/11/2008	ISSUE REVISION COMPLETED			
39	12/11/2008	DOCUMENT VERIFICATION			
38	12/11/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
37	12/11/2008	NOTICE OF ALLOWABILITY			
36	11/23/2008	DATE FORWARDED TO EXAMINER			
35	11/06/2008	RESPONSE AFTER NON-FINAL ACTION			
34	09/05/2008	MAIL NON-FINAL REJECTION			
33	09/04/2008	NON-FINAL REJECTION			
32	08/15/2008	DATE FORWARDED TO EXAMINER			
31	08/06/2008	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
30	08/15/2008	DATE FORWARDED TO EXAMINER			

29	08/06/2008	REQUEST FOR CONTINUED EXAMINATION (RCE)			
28	08/15/2008	DISPOSAL FOR A RCE / CPA / R129			
27	08/06/2008	WORKFLOW - REQUEST FOR RCE - BEGIN			
26	06/06/2008	MAIL EX PARTE QUAYLE ACTION (PTOL - 326)			
25	06/05/2008	EX PARTE QUAYLE ACTION			
24	05/21/2008	DATE FORWARDED TO EXAMINER			
23	04/29/2008	RESPONSE AFTER NON-FINAL ACTION			
22	01/29/2008	MAIL NON-FINAL REJECTION			
21	01/24/2008	NON-FINAL REJECTION			
20	03/20/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
19	01/08/2008	DATE FORWARDED TO EXAMINER			
18	12/19/2007	RESPONSE TO ELECTION / RESTRICTION FILED			
17	11/19/2007	MAIL RESTRICTION REQUIREMENT	480		-1
16	11/15/2007	REQUIREMENT FOR RESTRICTION / ELECTION			
14.7	03/20/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
14	03/20/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
13	01/17/2006	PRELIMINARY AMENDMENT			
12	11/01/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
11	11/01/2005	CASE DOCKETED TO EXAMINER IN GAU			
10	06/30/2005	APPLICATION RETURN FROM OIPE			
9	06/30/2005	APPLICATION RETURN TO OIPE			
8	06/30/2005	APPLICATION RETURN FROM OIPE			
7	07/01/2005	APPLICATION IS NOW COMPLETE			
6	06/30/2005	APPLICATION RETURN TO OIPE			
5	06/29/2005	APPLICATION DISPATCHED FROM OIPE			
4	06/30/2005	APPLICATION IS NOW COMPLETE			
3	06/10/2005	CLEARED BY OIPE CSR			
2	06/06/2005	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	05/27/2005	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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4813-B EISENHOWER AVENUE
ALEXANDRIA VA 22304

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OFFICE OF PETITIONS

In re Application of	:	DECISION ON
Williams et al.	:	APPLICATION FOR
Application No. 11/138412	:	PATENT TERM ADJUSTMENT
Filing or 371(c) Date: 05/27/2005	:	and
Attorney Docket No.	:	NOTICE OF INTENT TO ISSUE
PIP75WILLU-USD1	:	CERTIFICATE OF CORRECTION

This is in response to the "37 CFR 1.705 APPLICATION FOR PATENT TERM ADJUSTMENT," filed November 13, 2010. Applicant submits that the proper patent term adjustment to be indicated on the patent is 1496 days, not 1111 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.

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: WUKU3009/REF	Patent Number: 7666377
Filing Date (or 371(b) or (f) Date): 2005-05-27	Issue Date: 2010-02-23
First Named Inventor: Kuo-Ching Wu	
Title: METHOD FOR THE REMOVAL OF CARBON MONOXIDE FROM A GAS MIXTURE	

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 /ThomasJMoore/	Date 2010-08-20
Name (Print/Typed) Thomas J. Moore	Registration Number 28974

***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
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Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

Instruction Sheet for: REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH**

(Not to be Submitted to the USPTO)

This form is only for requesting a recalculation of PTA for patents issued before March 2, 2010, if the sole basis for requesting the recalculation is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A).

This form must be filed within 180 days of the day the patent was granted, with the following exception:

> Patentees who received a decision from the USPTO under the USPTO's pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A) may file a request for reconsideration of that decision if such a request for reconsideration is filed within **two months** of the date of the decision (37 CFR 1.181(f)). If the patentee's sole basis for requesting reconsideration of the decision is the USPTO's pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A), the request for reconsideration need only state that reconsideration is being requested in view of Wyeth (this form may be used for this purpose if it is filed within **two months** of the date of the decision from the USPTO).

Do not use this form if the application has been allowed, but not yet issued as a patent.

1. **For patents issued before March 2, 2010:** A request for reconsideration under 37 CFR 1.705(d) and the fee set forth in 37 CFR 1.18(e) are not required, provided that the patentee's sole basis for requesting recalculation of the PTA in the patent is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A) and this form is filed within 180 days of the day the patent was granted.

2. **For patents issued on or after March 2, 2010 (do not use this form):** Patentees seeking a revised PTA in a patent issued on or after March 2, 2010, must file a request for reconsideration under 37 CFR 1.705(d) that complies with the requirements of 37 CFR 1.705(b)(1) and (b)(2) within two months of the day the patent issued.

For more information, see "Notice Concerning Calculation of the Patent Term Adjustment With Respect to the Overlapping Delay Provision of 35 U.S.C. 154(b)(2)(A)" available on the USPTO Web site at http://www.uspto.gov/patents/law/notices/2010.jsp.

**Wyeth v. Kappos*, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA, VA 22314-1176

Mail Date: 08/26/2010

Applicant	: Kuo-Ching Wu	: DECISION ON REQUEST FOR
Patent Number	: 7666377	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/138,480	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/27/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1016** 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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NEUROVISTA / SHAY GLENN
2755 CAMPUS DRIVE, SUITE 210
SAN MATEO CA 94403

In re Patent No. 7,403,820 :
Issue Date: July 22, 2008 :
Application No. 11/138,621 : NOTICE
Filed: May 25, 2005 :
Attorney Docket No. 10003-704.507 / 1.14US

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**.

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 Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Kendal M. Sheets
Authorized Representative
CPA Global
2318 Mill Road, Suite 12 Floor
Alexandria, VA 22314

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Patent No. : 8,063,300 B2
Ser. No. : 11/138,666
Inventor(s) : Horne et al.
Issued : Nov. 22, 2011
Title : CONCENTRATOR SOLAR PHOTOVOLTAIC ARRAY WITH COMPACT TAILORED IMAGING POWER UNITS
Docket No. : SOLFP005/SF-P001
Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this matter, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1. 17(i) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Ennis Young
For Mary Diggs
Decisions & Certificates
of Correction Branch
(571) **272-3435** or (703) 756-1814

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THE MUELLER LAW OFFICE, P.C.
12707 High Bluff Drive, Suite 200
San Diego CA 92130

In re Patent No. 8,063,300 :
Issue Date: November 22, 2011 :
Application No. 11/138,666 : DECISION ON PETITION
Filed: May 26, 2005 :
Attorney Docket No. SOLFP005/SF-P001 :

This is a decision on the Petition To Correct Assignee Under 37 3.81(b), filed January 27, 2012, to identify the correct assignee's name. A completed Certificate of Correction Form (PTO/SB/44) was previously submitted.

The petition under 37 CFR §3.81(b) is **GRANTED**.

Petitioner urges that the present Petition was submitted to correct the assignee's name on the previously submitted PTOL 85B and such error was inadvertent. Accordingly, petitioner requests, in effect, that the Title Page of the above-identified patent be corrected, via issuance of Certificate of Correction, to correct the assignee's name identified thereon from:

"SolFocus, Inc."

to:

--H2GO, Inc.--

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in §3.11 before issuance of the patent, and must include a request for a certificate of correction under §1.323 of this chapter (accompanied by the fee set forth in §1.20(a) and the processing fee set forth in §1.17(i) of this chapter.

The requisite $130.00 processing fee (Fee Code 1464), as set forth under 37 CFR 1.17(i), was previously submitted. However, the requisite $100.00 fee (Fee Code 1811), as set forth under 37 CFR §1.20(a), is required. Therefore, since the petition was accompanied deposit account authorization, the fee has been charged. Further, Office assignment records are consistent with the requested correction. Accordingly, since the Petition complies with the provisions of 37 CFR §3.81(b), it is appropriate for the Office to issue a Certificate of Correction in accordance with the content of the Form (PTO/SB/44) was 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 (703)756-1814.

This matter is being referred to the Certificates of Correction Branch for processing of a Certificate of Correction in U.S. Patent No. 8,063,300.

Cheryl Gibson-Baylor

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

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HAMILTON, BROOK, SMITH & REYNOLDS, P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD MA 01742-9133

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In re Application of	:	
Jacobs et al.	:	
Application No. 11/138,759	:	ON PETITION
Filed: May 26, 2005	:	
Attorney Docket No. 2386.2036-000	:	

This is in response to the petition under 37 CFR 1.183, filed June 25, 2010, requesting waiver of the requirements of 37 CFR 1.131 to the extent that it requires that all of the named inventors execute the declaration filed thereunder.

The petition is **GRANTED to the extent *infra*.**

Petitioner asserts that, while all of the named inventors contributed to the conception of the claimed invention which is under rejection, only Philip Jacobs and Yifang Zhuang have agreed to execute the declaration under 37 CFR 1.131 in support of establishing conception of the claimed invention prior to January 7, 2005.

As noted in MPEP 715.04, an adequate showing may lead to acceptance of a declaration under 37 CFR 1.131 executed by less than all of the named inventors of the claimed subject matter in question. Under the facts presented, it is agreed that justice requires waiver of the rules to the extent that they require Morgan Littlewood to declare. However, the favorable decision herein does not relieve applicants from their burden to establish that the invention was completed before the date of the reference and that the claimed invention was the product of the joint inventors. See In re Carlson, 79 F.2d. 900, 27 USPQ 400 (CCPA 1935).

This matter is being referred to Technology Center AU 2463 for processing of the Request for Continued Examination (RCE) under 37 CFR 1.114 filed concurrently with the instant petition.

Telephone inquiries regarding this decision should be directed to Petitions Examiner Liana Walsh at (571) 272-3206.

/dab/
David Bucci
Petitions Examiner
Office of Petitions

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P.O.Box 1022
Minneapolis MN 55440

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In re Application of	:	
Venkadesan Marimuthu	:	
Application No. 11/138,805	:	DECISION ON PETITION
Filed: May 26, 2005	:	
Attorney Docket No. 26310-0078001	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 27, 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 April 7, 2011, as required by the Notice of Allowance and Fee(s) Due, mailed January 7, 2011. Accordingly, the date of abandonment of this application is April 8, 2011. A Notice of Abandonment was mailed on April 25, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,510 and the publication fee of $300, (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay. Accordingly, the issue and publication fees are accepted as being unintentionally delayed.

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 Kimberly Inabinet at (571) 272-4618.

This application is being referred to the Office of Data Management for further processing into a patent.

/Kimberly A. Inabinet/

Kimberly A. Inabinet
Petitions Examiner
Office of Petitions

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Paper No.

Fish & Richardson PC
P.O.Box 1022
Minneapolis MN 55440

In re Patent No. 7,979,845	:	
Marimuthu	:	DECISION ON
Issue Date: July 12, 2011	:	REQUEST FOR
Application No. 11/138,805	:	RECONSIDERATION OF
Filed: May 26, 2005	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 26310-0078001	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR § 1.705(d)," filed September 12, 2011, requesting that the patent term adjustment determination for the above-identified patent be changed from one thousand, three hundred and two (1302) days to one thousand, five hundred and ten (1510) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand, three hundred and twenty-two (1322) days is **GRANTED to the extent indicated herein.**

BACKGROUND

On July 12, 2011, the above-identified application matured into US Patent No. 7,979,845 with a patent term adjustment of 1302 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 disputes three calculations:

1. Patentee asserts that two periods of reduction overlap, such that the entire 20 day reduction occurs on the same

calendar days as 20 days of the 54 day reduction, and therefore, the reduction should constitute 54, and not 74 (20 + 54) days;

2. Patentee disputes the inclusion of the day on which a Request for Continued Examination (RCE) was filed in the over three year period, and;

3. Patentee agrees that the over three-year period stops with the filing of a RCE, but argues that the three-year period should restart with the mailing of a notice of allowance.

Regarding the first calculation that is in dispute: overlapping calendar days:

A 20-day reduction was assessed pursuant to 37 C.F.R. § 1.704(b), and a 54-day reduction was assessed, pursuant to 37 C.F.R. § 1.704(c)(3)(i). Patentees argue that only the 54-day reduction should be assessed.[1] The 20-day reduction has been reconsidered, and it is determined that entry of the 20-day reduction is not warranted. Accordingly, the period of reduction of 20 days is being removed.

Regarding the second calculation that is in dispute: the inclusion of the day on which a RCE was filed in the over three year period:

Patentees dispute 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 May 27, 2008 *and ends on March 30, 2010, the day before the first RCE was filed*, which amounts to 673 days. See U.S.C. 154(b)(1)(B)(i).

Patentees argue that the day on which the RCE was filed should be included in the period of B-delay.[2] As such, Patentees argue that the first portion of the over three period begins on May 28, 2008[3] and ends on March 31, 2010, the day on which the RCE was filed, which amounts to 672[4] days.

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[1] Petition, page 2.
[2] Id. at 3.
[3] Patentees mistakenly characterize "the day after the date that is three years after the date on which the application was filed" as May 28, 2008 on the third page of this petition, instead of May 27, 2008. It is noted that

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 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.

Regarding the third calculation that is in dispute: whether the over three-year period that has ceased with the filing of a RCE should restart upon the mailing of a notice of allowance:

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);

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the application was filed on May 26, 2005, and as such the day that is after the three-year anniversary of this date is May 27, 2008, and not May 28, 2008. This appears to be a typographical error that is carried over onto the fourth page of this petition.

[4] Petition, page 3.

> (ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or
> (iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued.

The implementing regulation, 37 C.F.R. § 1.702(b) provides that:

> Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application, but not including:
> (1) Any time consumed by continued examination of the application under 35 U.S.C. 132(b);
> (2) Any time consumed by an interference proceeding under 35 U.S.C. 135(a);
> (3) Any time consumed by the imposition of a secrecy order under 35 U.S.C. 181;
> (4) Any time consumed by review by the Board of Patent Appeals and Interferences or a Federal court; or
> (5) Any delay in the processing of the application by the Office that was requested by the applicant.

OPINION

At issue is the period not included in the B-delay for "any time consumed by continued examination of the application requested by the applicant under section 132(b)." See U.S.C. 154(b)(1)(B)(i). **The Office maintains that the entire period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period.** As such, the over three-year period begins on May 27, 2008 and ends on March 30, 2010, the day before the first RCE was filed, which amounts to 673 (not 860[5]) days.

Patentee argues that the 186-day[6] period between the mailing of the notice of allowance on January 7, 2011 and the issuance of the patent on July 12, 2011 should be included in the period of B-delay, as this time "was not 'consumed by continued

[5] Id. at 3 and 4.
[6] Patentee has miscalculated this period to constitute 131 days.

examination of the application."[7] As such, Patentees argue that the over three-year period begins on May 27, 2008 (as developed above, Patentees mistakenly use a date of May 28, 2008 for the day after the three-year anniversary of the filing of the application), pauses on March 31, 2010 (the day of the filing of the first RCE - as developed above, the proper date is March 30, 2010, the day before the filing of the first RCE), restarts on July 7, 2011 with the mailing of the notice of allowance, and ends on July 12, 2011 with the issuance of the patent.

Patentees' argument has been considered, but not found persuasive. Counting the period of time excluded from the "B delay" for the filing of a request for continued examination under 35 U.S.C. 132(b), from the date on which the request for continued examination is filed to the date the patent is issued is proper. Patentee does not dispute that time consumed by continued examination of an application under 35 U.S.C. 132(b) is properly excluded and that the calculation of the excluded period begins on the date of filing of the request for continued examination. At issue is what further processing or examination beyond the date of filing of the request for continued examination is time consumed by continued examination of the application under 35 U.S.C. 132(b). The USPTO indicated in September of 2000 in the final rule to implement the patent term adjustment provisions of the AIPA that once a request for continued examination under 35 U.S.C. 132(b) and 37 CFR 1.114 is filed in an application, any further processing or examination of the application, including granting of a patent, is by virtue of the continued examination given to the application under 35 U.S.C. 132(b) and CFR 1.114. See Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term, 65 Fed. Reg. 56365, 56376 (Sept. 18, 2000) (response to comment 8). Thus, the excluded period begins with the filing of the request for continued examination and ends with the issuance of the patent.

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"[8] 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

[7] Petition, page 3.
[8] Id.

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, 580 F.Supp.2d 138 (D.D.C., September 30, 2008), because the clock for calculating the 20-year patent term begins to run on the filing date, and not on the day the patent is actually granted, some of the effective term of a patent is consumed by the time it takes to prosecute the application. To mitigate this effect, the statute, *inter alia*, grants adjustments of patent term whenever the patent prosecution takes more than three years, regardless of the reason. The time consumed by prosecution of the application includes every day the application is pending before the Office from the actual filing date of the application in the United States until the date of issuance of the patent. The time it takes to prosecute the application ends not with the mailing of the notice of allowance, but with the issuance of the patent.

Thus, not including "any time consumed by" means not including any days used to prosecute the application as specified in clauses (i)-(ii)[9]. 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"

[9] Clause (iii) provides for not including (iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued. It is noted that paragraph (3)(C) allows with an adequate showing by applicant for reinstatement of no more than 3 months of the patent term reduced for applicant delay in taking in excess of three months to respond.

refers to any days used in the course of 1) continued examination of the application under section 132(b) (the filing of a request for continued examination), 2) interference proceedings, 3) secrecy orders, and 4) appellate review. Thus, that 3-year period given to the Office to issue a patent before an adjustment will accrue for "B delay" does not include any days used in the course of or any time consumed by clauses (i)-(ii), including any time consumed by the filing of a request for continued examination.

Fourth, "the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued" meaning that the consequence of this failure is that after "the end of that 3-year period" an additional 1 day of patent term will accrue for each day that the application is pending until the day the patent is issued.

The "time consumed by" or used in the course of the continued examination of the application requested by the applicant under section 132(b) does not end until issuance of the patent. 35 U.S.C. 132(b) was enacted under the same title, the "American Inventors Protection Act of 1999," as 35 U.S.C. 154(b). Section 4403 of the AIPA amended 35 U.S.C. § 132 to provide, at the request of the applicant, for continued examination of an application for a fee (request for continued examination or RCE practice), without requiring the applicant to file a continuing application under 37 CFR 1.53(b) or a continued prosecution application (CPA) under 37 CFR 1.53(d). Thus, clause (i) is different from clause (ii) in that clause (i) refers to an examination process whereas clause (ii) refers to time consumed by proceedings (interferences, secrecy orders and appeals) in an application.

By nature, the time used in the course of the examination process continues to issuance of the patent. The examination process involves examining the application to ascertain whether it appears that the applicant is entitled to a patent under the law. See 35 U.S.C. 131 ("[t]he Director shall cause an examination to be made of the application and the alleged new invention; and if on such examination it appears that the applicant is entitled to a patent under the law, the Director shall issue a patent therefor"). If on examination it appears that the applicant is entitled to a patent, the USPTO issues a notice of allowance. See 35 U.S.C. 151 ("[i]f it appears that applicant is entitled to a patent under the law, a written

notice of allowance of the application shall be given or mailed to the applicant"). If on examination it appears that the applicant is not entitled to a patent, the USPTO issues a notice (an Office action) stating the applicable rejection, objection, or other requirement, with the reasons therefor. See 35 U.S.C. 132 ("[w]henever, on examination, any claim for a patent is rejected, or any objection or requirement made, the Director shall notify the applicant thereof, stating the reasons for such rejection, or objection or requirement, together with such information and references as may be useful in judging of the propriety of continuing the prosecution of his application"). Neither the issuance of a notice of allowance nor the insurance of an Office action terminates the examination process. If after the issuance of an Office action under 35 U.S.C. 132 it subsequently appears that the applicant is entitled to a patent (e.g., in response to an argument or amendment by the applicant), the USPTO will issue a notice of allowance. Conversely, if after the issuance of a notice of allowance under 35 U.S.C. 151 it subsequently appears that the applicant is not entitled to a patent (e.g., in response to information provided by the applicant or uncovered by the USPTO), the USPTO will withdraw the application from issuance and issue an Office action under 35 U.S.C. 132 stating the applicable rejection, objection, or other requirement, with the reasons therefor.

As held in Blacklight Power, the USPTO's responsibility to issue a patent containing only patentable claims does not end with the issuance of a notice of allowance under 35 U.S.C. 151. See BlackLight Power, Inc. v. Rogan, 295 F.3d 1269, 1273 (Fed. Cir. 2002). Rather, if there is any substantial, reasonable ground within the knowledge or cognizance of the Director as to why an application should not issue, it is the USPTO's duty to refuse to issue the patent even if a notice of allowance has previously been issued for the application. See In re Drawbaugh, 9 App. D.C. 219, 240 (D.C. Cir 1896).

Moreover, the applicant continues to be engaged in the examination process after the mailing of the notice of allowance. 37 CFR 1.56 makes clear that the applicant has a duty to disclose information material to patentability as long as the application is pending before the USPTO (*i.e.*, until a patent is granted or the application is abandoned). See 37 CFR 1.56(a) ("[t]he duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned"). 37

CFR 1.97 and 1.98 provide for the consideration of information submitted by the applicant after a notice of allowance has been mailed. See 37 CFR 1.97(d). In addition, 37 CFR 1.312 provides for the amendment of an application after a notice of allowance has been mailed. In fact, the request for examination procedures[10] permit the filing of a request for continued examination under 37 CFR 1.114 even after the issuance of a notice of allowance under 35 U.S.C. 151. See 37 CFR 1.114(a)(1).

As the examination process does not terminate with the mailing of the notice of allowance, the time consumed by continued examination requested by the applicant under section 132(b) does not terminate with the mailing of the notice of allowance. All the time the application is pending from the date of filing of the request for continued examination to the mailing of the notice of allowance through issuance of the patent is a consequence of the filing of the request for continued examination. Further action by the Office is pursuant to that request. Applicant has gotten further prosecution of the application without having to file a continuing application under 37 CFR 1.53(b).

All of the continued examination pursuant to the filing of the request by the applicant is properly excluded from the delay attributed to the Office. 35 U.S.C. 154(b)(1)(B)'s guarantee of a total application pendency of no more than three years provides for adjustment of the patent term for delay due to the Office's failure to issue the patent within three years, but does not include "any time consumed by continued examination requested by the applicant under 35 U.S.C. 132(b)." It is not necessary to mitigate the effect on the 20-year term to the extent that applicant has requested that the Office continue to examine the application via a request for continued examination, in lieu of, the filing of a continuing application under 37 CFR 1.53(b).

It follows that the patent term adjustment totals 1322 (1085 examination delay plus 291 B delay minus 54 applicant delay) days.

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[10] Thus, on occasion, even where a request for continued examination has already been filed and a notice of allowance issued pursuant to that request, applicant may file a further request for continued examination.

The Office 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. To the extent that Patentees dispute the effect of the RCE cutoff on B delay, 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.

Any subsequent filing pertaining to this matter should indicate that the attorney handling this matter is Paul Shanoski, and may be submitted by mail,[11] hand-delivery,[12] or facsimile.[13] Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web.[14]

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand, three hundred and twenty-two (1322) days**.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3225.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

---

[11] Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
[12] Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
[13] (571) 273-8300: please note this is a central facsimile number.
[14] https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,979,845 B2

DATED : **July 12, 2011** **DRAFT**

INVENTOR(S) : Marimuthu

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 1302 days

Delete the phrase "by 1302 days" and insert – by 1322 days--

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

EPSTEIN DRANGEL BAZERMAN & JAMES, LLP
60 EAST 42ND STREET
SUITE 820
NEW YORK NY 10165

MAILED

SEP 30 2010

OFFICE OF PETITIONS

In re Application of	:	
BLACKWOOD et al.	:	
Application No. 11/138,842	:	DECISION ON PETITION
Filed: 05/25/2005	:	
Attorney Docket No. 1707-100	:	

This is a decision on the petition under 37 CFR 1.137(b), filed April 12, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely and proper reply within the meaning of 37 CFR 1.113 to the final Office action, mailed September 22, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on December 23, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that applicant has supplied (1) the reply in the form of a RCE, the RCE fee, and the submission required by 37 CFR 1.114; (2) the petition fee; and (3) a proper statement of unintentional delay.

This application is being referred to Technology Center AU 2166 for processing of the RCE and for appropriate action by the Examiner on the amendment submitted in accordance with 37 CFR 1.114.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SYNOPSYS INC C/O HAYNES BEFFEL
& WOLFELD LLP
PO BOX 366
HALF MOON BAY CA 94019

MAILED

AUG 02 2010

OFFICE OF PETITIONS

In re Application of	:	
Bomholt, et al.	:	
Application No. 11/139,110	:	ON REQUEST FOR
Filed: May 27, 2005	:	RECONSIDERATION OF
Attorney Docket Number: SYNP 0440-3	:	PATENT TERM ADJUSTMENT

This is a decision on the petition under 37 CFR 1.705(b), filed January 21, 2010. Applicants believe that they should be accorded an additional PTA of 45 days. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment solely as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file a request for reconsideration of patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

In view thereof, the correct determination of PTA prior to issuance is **sixty-six (66) days** (208 days of PTO delay, reduced by 142 days of Applicant delay).

Receipt of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged.

The application is being forwarded to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to Petitions Attorney Cliff Congo at (571) 272-3207.

Anthony Knight
Director
Office of Petitions

[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

UNITED STATES PATENT AND TRADEMARK OFFICE

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1279 OAKMEAD PARKWAY
SUITE 300
SUNNYVALE CA 94085-4040

MAILED

DEC 20 2010

OFFICE OF PETITIONS

In re Application of	:	
Gene Zyrl RAGAN	:	
Application No. 11/139,131	:	DECISION ON PETITION
Filed: May 27, 2005	:	
Attorney Docket No. 4860P3778	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 02, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of September 25, 2009. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is December 26, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810.00, and the submission required by 37 CFR 1.114; (2) the petition fee of $1,620.00; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4231.

This application is being referred to Technology Center AU 2166 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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NOV 09 2010

OFFICE OF PETITIONS

K&L GATES LLP
P.O. BOX 1135
CHICAGO IL 60690

In re Application of	:	
James ATHANS	:	
Application No. 11/139,247	:	DECISION ON PETITION
Filed: May 27, 2005	:	TO WITHDRAW
Attorney Docket No. 116845-002	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 19, 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.

In this regard, the request to withdraw from record cannot be approved because the request to change the correspondence address is not an assignee of the entire interest who properly became of record under 37 C.F.R 3.71 nor is the correspondence address that of the first named inventor.

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- 6735.

/DCG/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

CC: CHEMTOOL INCORPORATED
P.O. BOX 538, 8200 RIDGEFIELD ROAD
CRYSTAL LAKE IL 60039

UNITED STATES PATENT AND TRADEMARK OFFICE

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www.uspto.gov

APNEOS CORPORATION
2033 RALSTON AVENUE #41
BELMONT CA 94002

MAILED

APR 09 2012

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Sotos et al. :
Application No. 11/139,294 :
Filed: May 27, 2005 :
Attorney Docket No: APN-006 :
For: SYSTEM AND METHOD FOR :
MANAGING SLEEP DISORDERS :

This is a decision on the petition, filed March 2, 2012, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision should be filed within two (2) months from the mail date of this decision. *Note* 37 CFR 1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 CFR 1.181 to Withdraw the Holding of Abandonment."

The petition has **not** been reviewed on the merits because the petition has not been properly signed.

In this regard, petitioner's attention is directed to 37 CFR 1.33(b), which states.

> (b) Amendments and other papers. Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:
> (1) A registered patent attorney or patent agent of record appointed in compliance with § 1.32(b);
> (2) A registered patent attorney or patent agent not of record who acts in a representative capacity under the provisions of § 1.34;
> (3) An assignee as provided for under §3.71(b) of this chapter; or
> (4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

An unsigned amendment (or other paper) or one not properly signed by a person having authority to prosecute the application is not entered. In this instance the petition filed on March 2, 2012 has not been properly signed. This applies, for instance, where the amendment (or other paper) is signed by only one of two applicants and the one signing has not been given a power of attorney by the other applicant.

Therefore, as the petition is not signed by all the inventors and the record herein fails to disclose that petitioner herein (Sotos) was ever given a power of attorney to act on behalf of the other inventor or that he is an assignee of the entire interest and has complied with the provisions of 37 CFR 3.73(b).

It is further noted to the extent petitioner seeks to revive the application under 37 CFR 1.137(b) a petition and $930.00 petition fee are also required.

The address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition. However, the Office will mail all future correspondence solely to the address of record.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3215.

Charlema Grant

Charlema Grant
Attorney Advisor
Office of Petitions

Cc: John Sotos
1788 Oak Creek Dr. Ste. 415
Palo Alto, CA 94304

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, LLP
1940 DUKE STREET
ALEXANDRIA VA 22314

MAILED
AUG 09 2010
OFFICE OF PETITIONS

In re Application of	:	
Makoto Kawasaki	:	
Application No. 11/139,519	:	DECISION GRANTING PETITION
Filed: May 31, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 273037US6	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed August 6, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on July 1, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 2434 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Patent No. : 7,902,261 B2
Ser. No. : 11/139,532
Inventor(s) : Matsumori
Issued : Mar. 8, 2011
Title : MEDICINAL COMPOSITIONS FOR PREVENTING OR TREATING VIRAL MYOCARDITIS
Docket No. : 2005 0898
Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this matter, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1. 17(i) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Ennis Young
For Mary Diggs
Decisions & Certificates
of Correction Branch
(571) **272-3435** or (703) 756-1814

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

WENDEROTH, LIND & PONACK, L.L.P.
1030 15TH STREET, N.W.,
SUITE 400 EAST
WASHINGTON DC 20005-1503

MAILED
JAN 27 2012
OFFICE OF PETITIONS

In re Patent No. 7,902,261 :
Issue Date: 8 March, 2011 :
Application No. 11/139,532 : ON PETITION
Filed: 31 May, 2005 :
Attorney Docket No. 2005_0898 :

This is a decision on the petition filed 8 September, 2011, to issue a certificate of correction and considered to waive the rules pursuant to 37 C.F.R. §1.183 and accept the correction of the assignee on the front page of the above-identified patent pursuant to 37 C.F.R. §1.323 and §3.81(a).

NOTE:

The requirements of the instant matter are set forth in the Commentary at MPEP §307 and §1480-§1485—Petitioner must provide not only the statement and showings, but also the proper fees and a showing that the assignment pursuant to which Petitioner seeks a change, was recorded with the Office before issue.

Petitioner might find it beneficial to move stepwise through the requirements.

The petition is **DISMISSED**.

Petitioner requests issuance of a certificate of correction.

The regulations at 37 C.F.R. §3.81(a) permits the patent to issue to the assignee, provided that, at the time the issue fee is paid, the name of an assignee is provided. The regulations at 37 C.F.R. §3.81 (b) permits the patent to issue in the name of an assignee if the assignment was submitted after payment of the issue fee but prior to issuance of a patent.

The guidance in the Commentary at MPEP §307 provides:

307 Issue to Assignee [R-3]

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.

**>

37 C.F.R. §3.81. Issue of patent to assignee.

(a)*With payment of the issue fee*: An application may issue in the name of the assignee consistent with the application's assignment where a request for such issuance is submitted with payment of the issue fee, provided the assignment has been previously recorded in the Office. If the assignment has not been previously recorded, the request must state that the document has been filed for recordation as set forth in §3.11.

(b)*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 § 3.11before 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.

(c)*Partial assignees*. (1) If one or more assignee, together with one or more inventor, holds the entire right, title, and interest in the application, the patent may issue in the names of the assignee and the inventor.

(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.<

Normally, for a patent to issue to an assignee, a request for issuance of the application in the name* of the assignee* must be filed in the United States Patent and Trademark Office (Office) at a date not later than the day on which the issue fee is paid. **>Such a request must indicate that the assignment has been previously recorded in the Office. If the assignment has not been previously recorded in the Office, the request must state that the document has been filed for recordation as set forth in 37 C.F.R. §3.11. See 37 C.F.R. §3.81(a).

If a request for issuance to an assignee pursuant to 37 C.F.R. §3.81(b) is submitted after the day on which the issue fee is paid, the request under 37 C.F.R. §3.81(b) must include a request for a certificate of correction under 37 C.F.R. §1.323 (accompanied by the fee set forth in 37 C.F.R. §1.20(a)) and the processing fee set forth in 37 C.F.R. §1.17(i). The request under 37 C.F.R. §3.81(b) must state that the assignment was submitted for recordation as set forth in 37 C.F.R. §3.11 before issuance of the patent. The Office will

issue a certificate of correction to reflect that the patent issued to the assignee provided the requirements of 37 C.F.R. §3.81(b) and 37 C.F.R. §1.323 are complied with.<

Only the first appearing name of an assignee will be printed on the patent where multiple names for the same party are identified on the **>Fee(s)< Transmittal form, PTOL-85B. Such multiple names may occur when both a legal name and an "also known as" or "doing business as" name is also included. This printing practice will not, however, affect the existing practice of recording assignments with the Office in the Assignment Division. The assignee entry on form PTOL-85B should still be completed to indicate the assignment data as recorded in the Office. For example, the assignment filed in the Office and, therefore, the PTOL-85B assignee entry might read "Smith Company doing business as (d.b.a.) Jones Company." The assignee entry on the printed patent will read "Smith Company."

Irrespective of whether the assignee participates in the prosecution of the application, the patent issues to the assignee if so indicated on the **>Fee(s)< Transmittal form PTOL-85B. Unless an assignee's name and address are identified Transmittal form PTOL-the applicant. Assignment will be based solely on >Assignment information updated after a patent is reflective of the assignment subsequent to the issuance assignment information an assignment search on and by inspecting the documents.<

A request for a certificate 37 CFR 1.323 (see MPEP from incomplete or erroneous furnished >, or a missing PTOL-85B will not be under 37 CFR 3.81(b) assignment was submitted in 37 CFR 3.11 before request under 37 CFR the Office of Petitions

(A)the *>processing< 1.17(*>i<);
(B)a request **>for the name of the assignee, corrected to state the name
(C)a statement that submitted for recordation 3.11before the issuance of the
(D)a **>request under 37 CFR 1.323 accompanied in 37 CFR 1.20(a).<

The regulations at 37 C.F.R. §3.81(b) provide:

> *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.

On any renewed petition, Petitioner must satisfy all showing and fee requirements.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice <u>and</u> all others who make representations before the Office are reminded to inquire

into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

CONCLUSION

Accordingly, the petition under 37 C.F.R. 37 C.F.R. §1.183, §1.322, §1.323 and §3.81 is **dismissed**.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By facsimile: **(571) 273-8300**
Attn: Office of Petitions

[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on Petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

Patent No. 7,902,261
Application No. 11/139,532

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[2]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[2] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of Petitioners or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Date : February 16, 2012

Patent No. :7224564
Inventor(s): :11139536
Issued :May 29, 2007
Title :AMALGAM OF SHEILDING AND SHIELDED ENERGY PATHWAYS AND
:OTHER ELEMENTS FOR SINGLE OR MULTIPLE CIRCUITS WITH
:COMMON REFERENCE NODE

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 Rules 1.322 and 1.323.

With respect to the alleged error concerning the deletion of inventors' names; the inventors are printed in accordance with the Declaration and/or ADS submitted at the time of filing the application or the filing of a petition during pendency. Review of the application file does not reveal a petition/amendment that meet the requirement of changing the inventorship. Accordingly, correction is not warranted under 1.322 or 1.323 as filed.

In view of the foregoing, your request is hereby denied.

However, your attention is directed to 37 C.F.R. 1.324, wherein a request is being made to add or delete inventor(s), after issuance of the patent.

Any inquiry concerning this communication should be directed to Ms. A. Green at (571) 272-9005

Mary Diggs, Supervisor
Decisions & Certificates
of Correction Branch
(703) 756-1580 or (571) 272-9005

John S. Sopko, Hoffman & Baron, LLP
6900 Jericho Turnpike
Syosset, NY 11791

/arg

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : October 19, 2010

TO SPE OF : ART UNIT 2618 - SPE

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/139,619 Patent No.: 7,634,244 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square Building
2800 South Randolph Street
Arlington, VA 22206

Antonio Johnson

Should the Related U.S. Application Data be amended as requested by applicant?
See COCIN dated 09-01-2010

Certificates of Correction Branch

(571)272-0483

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: ok to Enter. There's no New matter

DUC M. NGUYEN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

SPE _____

PTOL-306 (REV. 7/03) U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

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

Veronica Hradecky
129 Village Drive
Lewisville, TX 75067

Mail Date: 08/04/2010

Applicant	: Veronica Hradecky	: DECISION ON REQUEST FOR
Patent Number	: 7638740	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/139,755	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/27/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1148** 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.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	11139920
Filing Date	26-May-2005
First Named Inventor	Cang Lam
Art Unit	3773
Examiner Name	GREGORY ANDERSON
Attorney Docket Number	USGINZ04700
Title	Methods and apparatus for securing and deploying tissue anchors

◉ Please withdraw me as attorney or agent for the above identified patent application and the practitioners of record associated with Customer Number: 40518

The reason(s) for this request are those described in 37 CFR:

10.40(b)(4)

Certifications

☒ I/We have given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intend to withdraw from employment

☒ I/We have delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled

☒ I/We have notified the client of any responses that may be due and the time frame within which the client must respond

Change the correspondence address and direct all future correspondence to the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71:

Name	USGI Medical, Inc.
Address	1140 Calle Cordillera
City	San Clemente
State	CA
Postal Code	92673
Country	US

I am authorized to sign on behalf of myself and all withdrawing practitioners.	
Signature	/Johney U. Han/
Name	Johney U. Han
Registration Number	45565

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Decision Date : October 7,2011

In re Application of :

Cang Lam

Application No : 11139920

Filed : 26-May-2005

Attorney Docket No : USGINZ04700

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110105

DATE : January 19, 2011

TO SPE OF : ART UNIT 3721

SUBJECT : Request for Certificate of Correction on Patent No.: 7712288

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 scope of the claims have been modified by the amendments substantially changing the meaning of the claims. Note that identifiers have been claimed for various functions. Limiting the dependent claims to only a first identifier rather than a specific (of a plurality) changes the scope of the claims.

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, DC 20231

1/21/2011

Patent No. :7712288
Inventor(s) :Narayanan Ramasubramanian et al.
Issued :5/11/2010
Title :UNIFIED INGESTION PACKAGE AND PROCESS FOR PATENT COMPLIANCE WITH PRESCRIBED MEDICATION REGIMEN
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 the scope of the calims have been modified by the amendments substantially changing the meaning of the claims. Note that identifiers have been claimed for various functions. Limiting the dependent calims to only a first identifier rather than a specific (of a plurality) changes the scope of the claims. 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

HICKMAN PALERMO TRUONG & BECKER LLP
2055 GATEWAY PLACE, SUITE 550
San Jose, CA 95110

HR

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4/28/2011

TO SPE OF : ART UNIT 3721 Rada Rinaldi (SPE)

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/140012 Patent No.: 7712248

CofC mailroom date: 4/20/2011

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Certificates of Correction Branch
703-756-1571 _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☐ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

_____ SPE _____ Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110520

DATE : April 28, 2011

TO SPE OF : ART UNIT 3721

SUBJECT : Request for Certificate of Correction on Patent No.: 7,712,288

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - ST (South Tower) 9A22
Palm location **7590** - Tel. No. (703) 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriated box.

☐ **Approved** All changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☒ **Denied** State the reasons for denial below.

Comments:

The amendments to the claims are not proper for a Certificate of Correction; see MPEP 1481; In re Arnott, 19USPQ2d 1049, 1052 (Comm'r Pat. 1991). The scope of the claims are materially affected by the amendments as previously noted, in addition, the modification from "set of" to micropsheres, granules, or pellets" is objected to due to the previous consideration of the terms.

/RINALDI RADA/
Supervisory Patent Examiner.Art Unit 3721

DO NOT ENTER: /CH/

Docket No.: 60110-0013

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Narayanan Ramasubramanian et al	)	Confirmation No.: 1518
Serial No.: 11/140,012/Patent No.: 7,712,288	)	Examiner: Christopher R. Harmon
Filed: May 27, 2005/Issued: May 11, 2010	)	Art Unit: 3721

For: UNIFIED INGESTION PACKAGE AND PROCESS FOR PATIENT COMPLIANCE WITH PRESCRIBED MEDICATION REGIMEN

REQUEST FOR CERTIFICATE OF CORRECTION

Attention Certificate of Corrections Branch
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Enclosed herein is a Request for Certificate of Correction. The Certificate of Correction corrects errors in Claims 2, 6-8, 10-12, 14-15, 17 and 19. The $100.00 fee is enclosed.

It is respectfully requested that the Certificate of Correction be issued.

Previous Request for Certificate of Correction

Applicant requested a Certificate of Correction for this case on June 2, 2010. This certificate was denied based on a clear misinterpretation of the claims that would result from the correction. Particularly, the decision of January 21, 2011 asserted that the scope of the claims would be broadened, stating:

> *"Limiting the dependent claims to only a first identifier rather than a specific (of a plurality) changes the scope of the claims."*

The assumption made by this statement is that, by changing the claims to refer to **the first** identifier rather than **the specific** identifier, the meaning of the claims would be changed.

However, the response filed on November 13, 2009 clearly **removed every reference to a "specific" identifier** from Claim 1, and **replaced it with "first" identifier**. Due to this change, the dependent claims now lack antecedent basis for "specific" identifier. It is clear that replacing "specific" identifier with "first" identifier actually **limits these claims** to instances involving THE

first identifier of Claim 1 (a very particular and specific identifier indeed), and remedies unintentional antecedent basis errors.

No objection was made to the following replacements: "the specific dosage instance" with "the first dosage instance"; "the specific identifier" with "the first identifier"; "the set of medications" with "the set of microspheres, granules, and pellets that contain the medications." However, these replacements also cure antecedent basis errors. For convenience, a copy of the marked-up claims is submitted herewith.

It is respectfully requested that the Certificate of Correction be issued.

Respectfully submitted,

HICKMAN PALERMO TRUONG & BECKER LLP

/ShaneTLunceford#64452

Dated: April 20, 2011

Shane T. Lunceford
Registration No. 64,452

2055 Gateway Place, Suite 550
San Jose, CA 95110-1083
Tel: (408) 414-1080 ext. 459
Fax: (408) 414-1076

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4/28/2011

TO SPE OF : ART UNIT 3721 Rada Rinaldi (SPE)

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/140012 Patent No.: 7712248

CofC mailroom date: 4/20/2011

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

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: The amendments to the claims are not proper for a Certificate of Correction; see MPEP 1481; In re Arnott, 19 USPQ2d 1049, 1052 (Comm'r Pat. 1991). The scope of the claims are materially affected by the amendments as previously noted, in addition, the modification from "set of" to "microspheres, granules, or pellets" is objected to due to the previous consideration of the terms previously presented.

Rinaldi Rada Digitally signed by Rinaldi Rada DN: cn=Rinaldi Rada, c=US, ou=TC 3700 Date: 2011.05.23 07:28:16 -04'00'

SPE Art Unit

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, DC 20231

8/30/2011

Patent No. :7712288
Inventor(s) :Ramasubramanian
Issued :5/11/2010
Title :UNIFIED INGESTION PACKAGE AND PROCESS FOR PATIENT COMPLIANCE WITH PRESCRIBED MEDICATION
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 are printed in accordance with the record and the amendments to the calims are not proper for a certificate of correction. The MPEP 1481; In re Anott, 19 USPQ2d 1049, 1052 (Comm'r Pat. 1991). The scope of the calims are materially affected by the amendments as previously noted, in addition, the modification from set of to micropsheres,granules, or pellets is objected to due to the previous consideration of the terms by the SPE. Therefore being no fault on the Patent and Trademark Office, It has no authority to issue a certificate of correction under the provision of 1.322.

In view of the forgoing, your request in this matter, is hereby denied.

Future written correspondence concerning this matter should be filed and directed to Decisions & Certificates of Correction Branch.

Henry Randall
Decisions & Certificates
of Correction Branch
(703) 756-1571

HICKMAN PALERMO TRUONG & BECKER LLP
2055 Gateway Place, Suite 550
San Jose, CA 95110SHELTON, CT 06484

HR

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

COURTNEY STANIFORD & GREGORY LLP
PO BOX 9807
SAN JOSE CA 95157

MAILED

NOV 18 2010

OFFICE OF PETITIONS

In re Application of	:	
Koduri et al.	:	
Application No. 11/140,114	:	DECISION ON PETITION
Filed: May 27, 2005	:	
Attorney Docket No. ATEC.P010	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 22, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, February 19, 2010, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on May 20, 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 an Amendment, (2) the petition fee of $1,620.00, and (3) a proper statement of unintentional delay.

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.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

This application is being referred to Technology Center AU 2628 for appropriate action by the Examiner in the normal course of business on the reply received.

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Barbara B. Courtney
716 University Avenue, Suite 216
Los Gatos, CA 95032

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 9/2/2011

TO SPE OF : ART UNIT 1765 Seidleck James (SPE)

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/140197 Patent No.: 7879405

CofC mailroom date: 8/4/2011

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

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: _____

_____

_____

_____

_____

SPE **Art Unit** 1765

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

LEWIS AND ROCA LLP
1663 HWY 395, SUITE 201
MINDEN, NV 89423

MAILED
OCT 05 2010
OFFICE OF PETITIONS

In re Application of
Thomas Alan Gordon
Application No. 11/140,301
Filed: May 31, 2005
Attorney Docket No.: TAG-002

ON PETITION

This is a decision in response to the petition, filed August 23, 2010, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for a failure to reply in a timely manner to a non-final Office action mailed June 2, 2009. A Notice of Abandonment was subsequently mailed on December 15, 2009. On August 23, 2010 the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of amendment; (2) the petition fee of $810; and (3) an adequate statement of unintentional delay[1].

The application is being referred to Technology Center AU 1797 for appropriate action by the Examiner in the normal course of business on the amendment received August 23, 2010.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. While it is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). 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.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED

SEP 21 2010

OFFICE OF PETITIONS

Pfizer Inc.
10555 Science Center Drive
San Diego, CA 92121

In re Patent No. 7,595,325	:
Teshima et al.	: DECISION UPON REMAND AND
Issue Date: July 28, 2009	: RECONSIDERATION OF
Application No. 11/140,411	: PATENT TERM ADJUSTMENT
Filed: May 27, 2005	: AND NOTICE OF INTENT
Attorney Docket No. PC26140A	: TO ISSUE CERTIFICATE OF
Title: Substituted Pyrrolo[2,3-	: CORRECTION
D]Pyrididine Derivatives Useful	:
in Cancer treatment	

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 seven hundred and sixty-six (766) 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 seven hundred and sixty-six(766) 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 : 7,595,325

DATED : **September 29, 2009** **DRAFT**

INVENTOR(S) : Marx 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 375 days

Delete the phrase "by 375 days " and insert – by 766 days--

Day : Monday
Date: 9/20/2010

PALM INTRANET

Time: 09:46:34

PTA Calculations for Application: 11/140411			
Application Filing Date:	05/27/2005	PTO Delay (PTO):	490
Issue Date of Patent:	09/29/2009	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	115
Post-Issue Petitions:	0	Total PTA (days):	766
PTO Delay Adjustment:	391		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
73	09/20/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	391		
64.5	09/09/2009	PTA 36 MONTHS	13		
64	09/29/2009	PATENT ISSUE DATE USED IN PTA CALCULATION	86		57
63	09/05/2009	EMAIL NOTIFICATION			
62	09/04/2009	DISPATCH TO FDC			
61	09/02/2009	MAIL-PETITION DECISION - DISMISSED			
60	09/01/2009	PETITION DECISION - DISMISSED			
59	03/05/2009	PETITION ENTERED			
58	03/09/2009	APPLICATION IS CONSIDERED READY FOR ISSUE			
57	03/05/2009	ISSUE FEE PAYMENT VERIFIED			
56	03/05/2009	ISSUE FEE PAYMENT RECEIVED			
55	02/27/2009	FINISHED INITIAL DATA CAPTURE			
54	12/08/2008	EXPORT TO INITIAL DATA CAPTURE			
52	12/05/2008	MAIL NOTICE OF ALLOWANCE			
51	12/04/2008	ISSUE REVISION COMPLETED			
50	12/04/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
49	12/04/2008	ALLOWED CASE RETURNED TO THE EXAMINER FOR CLERICAL PROCESSING			
48	12/04/2008	DOCUMENT VERIFICATION			
47	12/04/2008	EXAMINER'S AMENDMENT COMMUNICATION			
46	12/04/2008	NOTICE OF ALLOWABILITY			
43	09/23/2008	DATE FORWARDED TO EXAMINER			
42	08/20/2008	RESPONSE AFTER NON-FINAL ACTION		61	40
41	08/20/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			

40	03/20/2008	MAIL NON-FINAL REJECTION			
39	03/12/2008	NON-FINAL REJECTION			
35	02/21/2008	DATE FORWARDED TO EXAMINER			
34	02/06/2008	RESPONSE AFTER NON-FINAL ACTION			
33	11/14/2007	MAIL NON-FINAL REJECTION			
32	11/13/2007	NON-FINAL REJECTION			
29	10/04/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
25	10/04/2007	REFERENCE CAPTURE ON IDS			
24	10/04/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		23	21
23	10/04/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
22	09/21/2007	DATE FORWARDED TO EXAMINER			
21	09/11/2007	RESPONSE TO ELECTION / RESTRICTION FILED			
20	08/22/2007	MAIL RESTRICTION REQUIREMENT	391		-1
19	08/20/2007	REQUIREMENT FOR RESTRICTION / ELECTION			
15	06/12/2007	CORRESPONDENCE ADDRESS CHANGE			
14	07/07/2006	CASE DOCKETED TO EXAMINER IN GAU			
13	06/14/2006	CASE DOCKETED TO EXAMINER IN GAU			
12	05/27/2005	PRELIMINARY AMENDMENT			
11	11/29/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
10	11/29/2005	CASE DOCKETED TO EXAMINER IN GAU			
9	11/04/2005	APPLICATION DISPATCHED FROM OIPE			
8	11/04/2005	APPLICATION IS NOW COMPLETE			
7	10/31/2005	ADDITIONAL APPLICATION FILING FEES		31	5
6	10/31/2005	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
5	06/30/2005	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
3	06/12/2005	CLEARED BY OIPE CSR			
2	06/09/2005	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	05/27/2005	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.: _____

DATE : 11/18/10 MELISSA KOVAL MSK 3/30/12

TO SPE OF : ART UNIT 2858 ~~Nguyen Hn (HA Tran)~~ Spe

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/140528 Patent No.: RE 40322

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: _____

Melissa Koval
SPE

2858
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
AUG 11 2011
OFFICE OF PETITIONS

DIGIMARC CORPORATION
9405 SW GEMINI DRIVE
BEAVERTON OR 97008

In re Application of	:	
Trent J. Brundage, et al.	:	
Application No. 11/140,540	:	DECISION ON PETITION
Filed: May 26, 2005	:	
Attorney Docket No. P1114W	:	

This is a decision on the petition, filed July 8, 2011, 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**.

The application was held abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed June 9, 2010, which set a shortened statutory period for reply of three (3) months. A reply was due on or before September 9, 2010, or, on or before December 9, 2010, with a three (3) month extension of time. A Notice of Abandonment was mailed June 21, 2011.

Petitioner states that the Notice of Abandonment mailed June 21, 2011 is in error because the petitioner filed a timely reply on December 8, 2010 along with a request for a three (3) month extension of time under 37 CFR § 1.136(a).

The file record indicates that a timely response was received electronically on December 8, 2011 that included a Notice of Appeal (and fee) along with the fee for a three (3) month extension of time. An appeal brief (and fee) along with a fee for a five-month extension of time was filed concurrently with the instant petition. As the Notice of Appeal and the Appeal Brief have been timely filed, the application is not abandoned.

Accordingly, the holding of abandonment is hereby withdrawn and the application restored to pending status.

Telephone inquiries regarding this decision should be directed to Terri Johnson at (571) 272-2991.

This application is being referred to Technology Center AU 2432 or appropriate action in the normal course of business on the Appeal Brief filed concurrently with the instant petition.

/Ramesh Krishnamurthy/
Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Kilpatrick Townsend & Stockton LLP
Adobe Systems, Inc. 58083
1100 Peachtree Street
Suite 2800
Atlanta GA 30309-4530

MAILED
SEP 30 2011
OFFICE OF PETITIONS

In re Patent No. 7,996,780
Issued: August 9, 2011
Application No. 11/140,582
Filed: May 27, 2005
Atty. Dkt. No.: 58083/375155 (M130)

: DECISION ON PATENT TERM
: and NOTICE OF INTENT TO
: ISSUE CERTIFICATE OF
: CORRECTION

This is a decision on the application for patent term adjustment filed September 26, 2011 requesting that the patent term adjustment be increased from 451 days to 453 days.

The above-identified application matured into U.S. Pat. No. 7,996,780 on August 9, 2011. The patent issued with a patent term adjustment of 451 days. The instant application for patent term adjustment was timely filed in accordance with 37 CFR 1.705(d). Patentee contests the period of reduction totaling two days in connection with the submission of the issue fee on June 20, 2011.

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 453 days is **GRANTED**.

The Office acknowledges the submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Corrections Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by 453 days.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

Enclosure: Draft Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,996,780

DATED : August 9, 2011 **DRAFT**

INVENTOR(S) : Mitnick

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 451 days

Delete the phrase "by 451 days" and insert – by 453 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

Michael M. Gerardi, Esq.
Suite 200
2801 Townsgate Road
Westlake Village CA 91361

MAILED

SEP 30 2010

OFFICE OF PETITIONS

In re Application of
Gregory A. PICCIONELLI et al.
Application No. 11/140,599
Filed: May 26, 2005

DECISION ON PETITION

This is a decision on the petition filed March 15, 2010, that is being treated under the provisions of 37 CFR 1.59(b), to expunge information from the above identified application.

The petition to expunge is **DISMISSED**.

Any request for reconsideration of this decision must include a cover letter entitled "Renewed Petition under 37 CFR 1.59(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The rules and statutory provisions governing the operations of the U.S. Patent and Trademark Office require payment of a fee on filing each petition. In this instance, the fee required is $200. Petitioner included a fee of $130.The petition in the above-identified application was not accompanied by payment of the required fee. No consideration on the merits can be given that petition until the required fee is received.

It is also noted that the petition is signed by "Michael M. Gerardi" who has identified himself as a "Co-inventor". In this regard, petitioner's attention is directed to 37 CFR 1.33(b), which states.

> *(b) Amendments and other papers. Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:*
> *(1) A registered patent attorney or patent agent of record appointed in compliance with § 1.32(b);*
> *(2) A registered patent attorney or patent agent not of record who acts in a representative capacity under the provisions of § 1.34;*
> *(3) An assignee as provided for under §3.71(b) of this chapter; or*
> *(4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.*

An unsigned amendment (or other paper) or one not properly signed by a person having authority to prosecute the application is not entered. This applies, for instance, where the amendment (or other paper) is signed by only one of two applicants and the one signing has not been given a power of attorney by the other applicant. Therefore, as the petition is not signed by all the inventors and the record herein fails to disclose that petitioner herein (Michael M. Gerardi) was ever given a power of attorney to act on behalf of the other inventors, or that he is an assignee of the entire interest and has complied with the provisions of 37 CFR 3.73(b), the petition is considered to not contain a proper signature.

The grant of a petition under 37 CFR 1.59 (b) to expunge information submitted in an application will be governed by the factors listed in Manual of Patent Examining Procedure (MPEP) §724.05. Petitioner may wish to consult this portion of MPEP in filing a renewed petition.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this decision may be directed to the undersigned at (571) 272 - 4914.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO, P.C
ONE FINANCIAL CENTER
BOSTON MA 02111

MAILED
JUL 15 2011
OFFICE OF PETITIONS

In re Application of	:	
Bi et al.	:	
Application No. 11/140,613	:	ON APPLICATION FOR
Filed: May 27, 2005	:	PATENT TERM ADJUSTMENT
Atty Docket No. 38820-554001US	:	

This decision is in response to the APPLICATION FOR ADJUSTMENT OF PATENT TERM UNDER 37 C.F.R. §1.705(b), filed June 10, 2011. Applicants request the PTA determination for the above-identified application be corrected to forty-five (45) days.

The request for reconsideration of patent term adjustment is **granted to the extent indicated below**.

On March 11, 2011, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 0 days. On June 10, 2011, applicants submitted the instant correspondence in which applicants dispute the 179 day period of reduction assessed in connection with the filing of a Request for Continued Examination ("RCE") on May 4, 2009 and the 140 day period of reduction assessed in connection with the abandonment of the application.

37 CFR 1.704(b) provides that:

> 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 argue that because applicants' RCE and petition to revive were timely filed on May 4, 2009, which was within two months of the mailing of the Notice of Abandonment, mailed April 17, 2009, that no reduction should have been applied in connection with the submission of the RCE.

Applicants' argument has been considered. However, a reduction of 179 days is in order. A final Office action was mailed on August 6, 2008. Applicants' three month clock to respond to a final Office action did not stop until applicants filed a response in compliance with 1.113(c). The fact that applicants' responded to the Notice of Abandonment within two months has no bearing on the 37 CFR 1.704(b) clock. Accordingly, a period of reduction of 179 days was properly entered for the period beginning on November 7, 2008, the day after the date that is three months after the date of mailing of the final Office action, and ending on May 4, 2009, the date a proper reply, in the form of a RCE, was filed. No changes will be made.

Applicants argue the Office calculation of the period of reduction pursuant to 37 CFR 1.704(c)(3) is incorrect. The Office concurs. Pursuant to 37 CFR 1.704(c)(3), a period of reduction of 120 days should have been entered. 37 CFR 1.704(c)(3) provides in pertinent part that:

> (c) Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:
>
> ...
>
> ...

(3) Abandonment of the application or late payment of the issue fee, in which case the period of adjustment set forth in §1.703 shall be reduced by the number of days, if any, beginning on the date of abandonment or the date after the date the issue fee was due and ending on the earlier of:

(i) The date of mailing of the decision reviving the application or accepting late payment of the issue fee; or

(ii) The date that is four months after the date the grantable petition to revive the application or accept late payment of the issue fee was filed.

In this instance, the application became abandoned on February 7, 2009 for failure to properly respond to the final Office action, mailed August 6, 2008. Applicants purchased a three month extension of time and filed an amendment after final rejection on February 6, 2009. Since the amendment after final rejection failed to place the application in *prima facie* condition for allowance, it was not a reply in compliance with 37 CFR 1.113(c). Therefore, the application became abandoned on February 7, 2009.

On May 5, 2009 applicants filed a grantable petition to revive under the unintentional delay standard of 37 CFR 1.137(b). This petition was not granted until November 23, 2009, which is longer than four months after the petition was filed. Accordingly, a period of reduction of 120 days is being entered (207 days for the period beginning on February 7, 2009, the date of abandonment, and ending on September 1, 2009, which is the date applicants' grantable petition was filed + four months/120 days MINUS the overlapping period of 87 days, beginning on February 7, 2009 and ending on May 4, 2009, which was already counted in the 179 day RCE reduction under 37 CFR 1.704(b)).

In view thereof, the correct patent term adjustment at the time of mailing of the Notice of Allowance on March 11, 2011 remains **zero (0) days**. However, the correction with respect to the period of abandonment has been entered. The updated calculation is 480 days Office delay minus 524 (1 + 90 + 179 + 120 + 86 + 48) days Applicant delay).

The Office acknowledges receipt of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent

term adjustment under 37 CFR 1.705(b). No additional fee is 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).

Applicants are reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicants will be notified of the revised patent term adjustment to be indicated on the patent in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

The Office of Data Management has been advised of this decision. This matter is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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11/140,613 STABILITY OF COVERT PIGMENTS 38820-554001US

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Patent Term Adjustment

Filing or 371(c) Date:	05-27-2005	Overlapping Days Between {A and B} or {A and C}:	0
Issue Date of Patent:	-	Non-Overlapping USPTO Delays:	480
A Delays:	480	PTO Manual Adjustments:	20
B Delays:	0	Applicant Delays:	544
C Delays:	0	Total PTA Adjustments:	0

Patent Term Adjustment History **Explanation Of Calculations**

Number	Date	Contents Description	PTO (Days)	APPL (Days)	Start
75	07-15-2011	Adjustment of PTA Calculation by PTO	20		0
67	03-11-2011	Mail Notice of Allowance			0
66	03-10-2011	Issue Revision Completed			0
65	03-10-2011	Notice of Allowance Data Verification Completed			0
64	03-10-2011	Case Docketed to Examiner in GAU			0
63	03-10-2011	Document Verification			0
62	03-10-2011	Allowability Notice			0
60	01-07-2011	Date Forwarded to Examiner			0
59	01-06-2011	Response after Ex Parte Quayle Action			0
58	12-06-2010	Mail Ex Parte Quayle Action (PTOL - 326)			0
57	12-03-2010	Quayle action			0
56	09-24-2010	Date Forwarded to Examiner			0
55	08-24-2010	Response after Non-Final Action		48	51
54	08-24-2010	Request for Extension of Time - Granted			0
53	07-15-2010	Mail Notice of Informal or Non-Responsive Amendment			0
52	07-14-2010	Date Forwarded to Examiner			0
51.1	07-07-2010	Informal or Non-Responsive Amendment after Examiner Action			0
51	07-07-2010	Response after Non-Final Action		86	49
50	07-07-2010	Request for Extension of Time - Granted			0
49	01-12-2010	Mail Non-Final Rejection	130		44
48	01-08-2010	Non-Final Rejection			0
47	12-03-2009	Date Forwarded to Examiner			0

46	05-04-2009	RCE- AF Processed			0
45	12-03-2009	Date Forwarded to Examiner			0
44	05-04-2009	Request for Continued Examination (RCE)		179	29
43	12-03-2009	Disposal for a RCE / CPA / R129			0
42	11-23-2009	Mail-Petition to Revive Application - Granted			0
41	11-23-2009	Petition to Revive Application - Granted			0
40	05-04-2009	Petition Entered		140	36
39	05-04-2009	Workflow - Request for RCE - Begin			0
38	04-28-2009	Change in Power of Attorney (May Include Associate POA)			0
37	04-24-2009	Correspondence Address Change			0
36	04-17-2009	Mail Abandonment for Failure to Respond to Office Action			0
35	04-16-2009	Aband. for Failure to Respond to O. A.			0
34	03-19-2009	Mail Advisory Action (PTOL - 303)			0
33	03-16-2009	Advisory Action (PTOL-303)			0
32	02-27-2009	Date Forwarded to Examiner			0
31	02-06-2009	Amendment after Final Rejection			0
30	02-06-2009	Request for Extension of Time - Granted			0
29	08-06-2008	Mail Final Rejection (PTOL - 326)			0
28	08-04-2008	Final Rejection			0
27	05-02-2008	Information Disclosure Statement considered			0
24	05-26-2008	Date Forwarded to Examiner			0
23	05-02-2008	Response after Non-Final Action		90	17
22	05-02-2008	Request for Extension of Time - Granted			0
21	05-02-2008	Reference capture on IDS			0
20	05-02-2008	Information Disclosure Statement (IDS) Filed			0
19	05-02-2008	Information Disclosure Statement (IDS) Filed			0
18	12-12-2007	Case Docketed to Examiner in GAU			0
17	11-02-2007	Mail Non-Final Rejection			0
16	10-29-2007	Non-Final Rejection			0
15	08-15-2007	Date Forwarded to Examiner			0
14	08-13-2007	Response to Election / Restriction Filed			0
13	07-12-2007	Mail Restriction Requirement	350		0.5
12	07-09-2007	Restriction/Election Requirement			0
	11-22-				

11	2005	Case Docketed to Examiner in GAU		0
10	11-16-2005	IFW TSS Processing by Tech Center Complete		0
9	11-16-2005	Case Docketed to Examiner in GAU		0
8	10-07-2005	Application Dispatched from OIPE		0
7	10-07-2005	Application Is Now Complete		0
6	09-29-2005	Payment of additional filing fee/Preexam	1	4
5	09-29-2005	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic		0
4	06-28-2005	Notice Mailed--Application Incomplete--Filing Date Assigned		0
3	06-16-2005	Cleared by OIPE CSR		0
2	06-13-2005	IFW Scan & PACR Auto Security Review		0
1	05-27-2005	Initial Exam Team nn		0
0.5	05-27-2005	Filing date		0

If you need help:

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- *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.*

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ROGER BELFAY ATTORNEY AT LAW
829 TUSCARORA AVENUE
SAINT PAUL MN 55102

MAILED
FEB 14 2011
OFFICE OF PETITIONS

In re Application of	:	
Jean Marie Winbauer	:	
Application No. 11/140,628	:	DECISION ON PETITION
Filed: May 27, 2005	:	
Attorney Docket No. 20050421-002	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 7, 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 final Office action mailed, January 4, 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 April 5, 2008. A Notice of Abandonment was mailed on September 17, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a RCE (Request for Continued Examination, with the required fee of $405, (2) the petition fee of $810, and (3) a proper statement of unintentional delay. Accordingly, the RCE is accepted as being unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to Technology Center AU 3723 for appropriate action by the Examiner in the normal course of business on the reply received December 7, 2009.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, DC 20231

9/23/2010

Patent No. :7208393
Inventor(s) :Haskell et al.
Issued :4/24/2007
Title :GROWTH OF PLANAR REDUCED DISLOCATION DENSITY M-PLANE GALLIUM NITRIDE BY HYDRIDE VAPOR PHASE EPITAXY
Atty.doc./File No.

Request for Certificates of Correction

Consideration has been given to your request for the issuance of a Certificate of Correction, for the above – identified patent under the provisions of CFR 1.322.

Inspection of the application for the patent reveals that item [63] is printed in accordance with the record please show evidence of supporting data. 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

GATES & COOPER LLP
ATTN: GEORGE H. GATES
6701 CENTER DRIVE WEST, SUITE 1050
LOS ANGELES, CA 90045

HR

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Date Mailed: October 28, 2010
Patent No. : 7,261,466 B2
Ser. No. :11/141349
Issued :August 28, 2007
Inventor(s) Ashwinkumar C. Bhatt, et al.
Title IMAGING INSPECTION APPARATUS WITH DIRECTIONAL COOLING

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:

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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

Mark Levy
Hinman, Howard & Kattell, LLP
700 Security Mutual Bldg.
80 Exchange Street
Binghamton, NY 139101

MD/mt

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In re Application of	:	
DELREGNO	:	
Application No. 11/141,374	:	DECISION GRANTING PETITION
Filed: May 31, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. RIC04008P1	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed September 9, 2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on August 3, 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 2474 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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Date Mailed: :August 9, 2010
Patent No. : 7,354,197 B2
Ser. No. :11/141494
Issued :April 8, 2008
Inventor(s) Ashwinkumar C. Bhatt, et al.
Title :IMAGING INSPECTION APPARATUS WITH IMPROVED COOLING

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:

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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

Hinman, Howard & Kattell, LLP
700 Security Mutual Bldg.
80 Exchange St.
Binghamton, NY 13901

MD/mt

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STRAUB & POKOTYLO
788 Shrewsbury Avenue
TINTON FALLS NJ 07724

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OFFICE OF PETITIONS

In re Application of	:	
Tetsuya Toyoda	:	
Application No. 11/141,544	:	DECISION ON PETITION
Filed: May 31, 2005	:	
Attorney Docket No. OOCL-219 (6SI-05S0506)	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 23, 2011, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely submit corrected formal drawings on or before August 26, 2011, as required by the Notice of Allowance and Fee(s) Due and the Notice of Allowability, mailed May 26, 2011. Accordingly, the date of abandonment of this application is August 27, 2011. The Notice of Abandonment was mailed September 8, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) corrected formal drawings , (2) the petition fee of $1,620; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Terri Johnson at (571) 272-2991.

This application is being referred to the Office of Data Management for processing into a patent.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

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PEPPER HAMILTON LLP
ONE MELLON CENTER
50TH FLOOR
500 GRANT STREET
PITTSBURGH PA 15219

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OFFICE OF PETITIONS

In re Patent No. 7,745,225
Issued: June 29, 2010
Application No. 11/141,635
Filed: May 31, 2005
Attorney Docket No. **126595.00301**

: DECISION ON REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT

This is a decision on the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT PURSUANT TO 37 CFR §1.705(d) filed on August 25, 2010, requesting that the patent term adjustment determination under 35 U.S.C. § 154(b) be changed from 257 days to 303 days.

The request is **DISMISSED**.

Patentees are given **THIRTY (30) DAYS or ONE (1) MONTH, whichever is longer,** from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

On February 19, 2010, the above-identified application matured into U.S. Patent No. 7,745,225 with a revised patent term adjustment of 257 days. On August 25, 2010, patentees timely submitted this application for patent term adjustment (with required fee), asserting that the correct number of days of Patent Term Adjustment is 303 days.

Patentee disputes the reduction of 46 days for applicant delay and argues that there is no basis for this additional delay. Accordingly, Patentees request recalculation of the patent term adjustment. Patentee's argument has been considered but is not found to be persuasive.

A review of the file reveals that 46 days were deducted for applicant delay for a miscellaneous incoming letter filed on May 6, 2010 after allowance of an Application for

Patent Term Adjustment. The reduction in question, after the mailing of the Notice of Allowance was a REQUEST TO CHANGE INVENTOR ADDRESS AND REQUEST FOR UPDATED FILING RECEIPT.

37 CFR § 1.704(c)(10) provides that:

> Submission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the lesser of:
> (i) The number of days, if any, beginning on the date the amendment under § 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or such other paper;
> or
> (ii) Four months;

The reduction has been considered a proper a basis for reduction of patent term adjustment pursuant to § 1.704(c)(10).

As stated in MPEP 2732:

> 37 CFR 1.704(c)(10) establishes submission of an amendment under 37 CFR 1.312 or other paper after a notice of allowance has been given or mailed as a circumstance that constitutes a failure of an applicant to engage in reasonable efforts to conclude processing or examination of an application. The submission of amendments (or other papers) after an application is allowed may cause substantial interference with the patent issue process.
>
> Certain papers filed after allowance are not considered to be a failure to engage in reasonable efforts to conclude processing or examination of an application. See *Clarification of 37 CFR 1.704(c)(10) – 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.

In view thereof, the patent term adjustment indicated in the patent is properly reflected.

The Office acknowledges the submission of the required fee of $200.00 set forth in 37 CFR 1.18(e) .

Telephone inquiries specific to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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JUN 06 2011

OFFICE OF PETITIONS

In re Patent No. 7,745,225
Issued: June 29, 2010
Application No. 11/141,635
Filed: May 31, 2005
Attorney Docket No. **126595.00301**

: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 DECISION OF REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT PURSUANT TO 37 CFR §1.705(d) filed on October 12, 2010, requesting that the patent term adjustment indicated on the above-identified patent be corrected from 257 days to 303 days.

The petition 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 three hundred three **(303)** days.

On June 29, 2010 the application matured into U.S. Patent No. 7,745,225 with a revised PTA thereon of 247 days. On October 12, 2010, patentee filed the instant request and while Applicant acknowledges that the 9 day reduction for the "miscellaneous incoming letter" filed on May 6, 2010 was proper under 37 CFR § 1.704(c)(10), applicant disputes the 46 day delay attributed for the submission of a second "miscellaneous incoming letter" also filed on May 6, 2010, after the Notice of Allowance was mailed.

This application is not subject to a terminal disclaimer.

The reduction of forty-six (46) days pursuant to 37 C.F.R. § 1.704(c)(10) is at issue.

The reduction of 46 days has been found to be incorrect. A review of the file, as stated by Patentee, supports a conclusion that the reduction should be from the filing of the REQUEST TO CHANGE INVENTOR ADDRESS AND REQUEST FOR UPDATED FILING RECEIPT on May 6, 2010 to the mailing of the response on May 10, 2010, and also for the submission of the amendment under 37 CFR 1.312, May 6, 2010 to the date the response was mailed, May 14, 2010. The period of delay pursuant to 37 C.F.R. § 1.704(c)(10) is therefore 9 days as the two periods overlap.

In view thereof, the patent term adjustment indicated in the patent should have been three hundred three **(303)** days.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **three hundred three (303) 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 : 7,745,225 B2

DATED : June 29, 2010

INVENTOR(S) : Thomas Mitts

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 (257) days

Delete the phrase "by 257 days" and insert – by 303 days--

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

BENMAN, BROWN & WILLIAMS
SUITE 2740
2049 CENTURY PARK EAST
LOS ANGELES CA 90067

MAILED
OCT 12 2010
OFFICE OF PETITIONS

In re Application of	:	
Hidekazu NAKAMA	:	
Application No. 11/141,819	:	DECISION ON PETITION
Filed: June 01, 2005	:	
Attorney Docket No. Waxess-1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 22, 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 June 09, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on September 10, 2009.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item **(1)**.

The amendment filed with the petition on April 22, 2010 does not place the application in condition for allowance.

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- .

Michelle R. Eason
Paralegal Specialist
Office of Petitions

See attached: Advisory Action

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BENMAN, BROWN & WILLIAMS
SUITE 2740
2049 CENTURY PARK EAST
LOS ANGELES CA 90067

MAILED
JAN 19 2011
OFFICE OF PETITIONS

In re Application of	:	
Hidekazu NAKAMA	:	
Application No. 11/141,819	:	DECISION ON PETITION
Filed: June 01, 2005	:	
Attorney Docket No. Waxess-1	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed December 09, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The two-month period for filing an appeal brief under 37 CFR 41.37 (accompanied by the fee required by 37 CFR 41.20(b)(2)), runs from the date of this decision.

This application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of June 09, 2009. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is September 10, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal; (2) the petition fee of $810.00; and (3) a proper statement of unintentional delay. Accordingly, the reply to the final Office action of June 09, 2009 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4231.

This application is being referred to Technology Center AU 2473 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

3-2-2011

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Patent No : 7,207,922 B2
Ser. No. : 11/141,924
Inventor(s) : Jochen Kuhstrebe, et. al.
Issued : April 24, 2007

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.17(i) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, , no additional fee is required.

Eva James
For Mary Diggs
Decisions & Certificates
of Correction Branch
(571) 272-3422 or 703- 756 -1580

Alfred W. Froebrich
Cohen Pontani Lieberman & Pavane
551 5th Avenue, Suite 1210
New York, NY 10176

ej

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

COHEN, PONTANI, LIEBERMAN & PAVANE LLP
551 FIFTH AVENUE
SUITE 1210
NEW YORK NY 10176

MAILED
JUN 15 2011
OFFICE OF PETITIONS

In re Application of	:	
Kuhstrebe, et al.	:	
Application No. 11/141,924	:	ON PETITION
Filed: June 1, 2005	:	
Attorney Docket No. 4452-557DV3	:	

This is a decision on the request, filed April 4, 2011, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee's name on the Fee(s) Transmittal form PTOL-85(b) so that the Letters Patent will issue to the assignee.

The request is GRANTED.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3205. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The required processing fee of $130.00 has been charged to the authorized deposit account.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

[1] *See* MPEP 1309, subsection II and Official Gazette of June 22, 2004

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Commissioner for Patents
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Alexandria, VA 22313-1450
www.uspto.gov

CHARLES E. BAXLEY, ESQUIRE
90 JOHN STREET
SUITE 403
NEW YORK, NY 10038

MAILED

MAY 16 2011

OFFICE OF PETITIONS

In re Patent No. 7,039,975 :
Issue Date: May 9, 2006 :
Application No. 11/141,966 : ON PETITION
Filed: June 1, 2005 :
Patentee(s): Youn Chyuan Liao :

This is a decision on the petition under 37 CFR 1.378(c), filed on April 7, 2011, to accept the delayed payment of a maintenance fee for the above-identified patent.

Since petitioner has demonstrated to the satisfaction of the Commissioner that the delay in timely paying the maintenance fee was unintentional, the petition under 37 CFR 1.378(c) is hereby **GRANTED**.

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

This patented file is being forwarded to Files Repository.

Telephone inquiries should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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FISH & RICHARDSON PC
PO BOX 1022
MINNEAPOLIS MN 55440-1022

MAILED
AUG 01 2011
OFFICE OF PETITIONS

In re Application	:	
Woolsey, et al.	:	
Application No. 11/141,990	:	DECISION ON APPLICATION
Filed: May 31, 2005	:	FOR PATENT TERM ADJUSTMENT
Atty Docket No. 07844-0695001	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. 1.705(b)", filed July 1, 2011. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from seven hundred fourteen (714) days to seven hundred thirty-two (732) days.

The application for patent term adjustment is **DISMISSED**.

On April 4, 2011, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is seven hundred fourteen (714) days. On July 1, 2011, Applicants timely[1] submitted the instant application for patent term adjustment, asserting that the correct number of days of PTA at the time of the mailing of the Notice of Allowance is seven hundred thirty-two (732) days.

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[1] Applicants filed the instant application for patent term adjustment together with the payment of the issue fee.

Applicants state that the patent issuing from the application is not subject to a terminal disclaimer.

The Office initially determined a patent term adjustment of seven hundred fourteen (714) days based on an adjustment for PTO delay of eight hundred twenty-nine (829) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1), reduced by thirty (30) and sixty-seven (67) days of Applicant delay pursuant to 37 C.F.R. 1.704(b), and eighteen (18) days of Applicant delay pursuant to 37 C.F.R. 1.703(c)(8).

Without offering a reason why, Applicants argue that they should not have been assessed eighteen (18) days of Applicant delay under 37 C.F.R. 1.704(c)(8). Applicants filed a reply to an Office action on December 23, 2009. Subsequently, applicants filed an "Applicant Initiated Interview Request Form" on January 11, 2010, and were assessed eighteen (18) days of delay under 37 C.F.R. 1.704(c)(8). § 1.704(c)(8) states that the submission of a supplemental reply or **other paper**, other than one requested by the examiner, after a reply has been filed, will be considered to be a failure to engage in reasonable efforts to conclude prosecution of the application. Applicants could have filed the interview request with their December 23, 2009 reply, and avoided the § 1.704(c)(8) reduction. Accordingly, the assessment of sixty-two (62) days of delay for filing this supplemental reply or other paper under § 1.704(c)(8) was proper.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is **seven hundred fourteen (714) days** (829 days of PTO delay, reduced by 115 days of Applicant delay).

Receipt of the $200.00 fee set forth in 37 C.F.R. § 1.18(e) is acknowledged.

The matter is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries specific to this matter should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Casimir Jones, S.C.
2275 DEMING WAY, SUITE 310
MIDDLETON WI 53562

MAILED
OCT 24 2011
OFFICE OF PETITIONS

In re Application of	:	
Richardson et al.	:	
Application No. 11/142123	:	
Filing or 371(c) Date: 06/01/2005	:	ON PETITION
Patent No. 7279281	:	
Issue Date: 10/09/2007	:	
Title of Invention: METHODS AND	:	
KITS FOR DIAGNOSING OR	:	
MONITORING AUTOIMMUNE AND	:	
CHRONIC INFLAMMATORY DISEASES	:	

This is a decision on the "Request for Certificate of Correction," filed October 4, 2011, to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction. The petition is properly treated under 37 CFR 3.81(b).

The Petition is granted.

The petition was accompanied by a certificate of correction as required by 3.81(b), and the fee submitted with the present petition. Further, Office assignment records reflect that The Regents of the University of Michigan and the United States Government as represented by the Department of Veterans Affairs, are the assignees of record. 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.

The processing fee, $130.00, has been charged to petitioner's deposit account as authorized in the petition.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

This matter is being referred to the Certificates of Correction Branch for processing of a certificate of correction after issuance of this application into a patent.

/DLW/

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Casimir Jones, S.C.
2275 DEMING WAY, SUITE 310
MIDDLETON WI 53562

MAILED

OCT 26 2011

OFFICE OF PETITIONS

In re Application of	:	
Richardson et al.	:	
Application No. 11/142123	:	
Filing or 371(c) Date: 06/01/2005	:	ON PETITION
Patent No. 7279281	:	
Issue Date: 10/09/2007	:	
Title of Invention: METHODS AND KITS	:	
FOR DIAGNOSING OR MONITORING	:	
AUTOIMMUNE AND CHRONIC	:	
INFLAMMATORY DISEASES	:	

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**.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

/DLW/

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BATEMAN IP LAW GROUP
P.O. BOX 1319
SALT LAKE CITY UT 84110

MAILED

NOV 12 2010

OFFICE OF PETITIONS

In re Application of:
BARLOW
Application No. 11/142,178
Filed: May 31, 2005
Attorney Docket No.: 3614.FROG.PT

PETITION DECISION

This is a decision on the petitions Request to Correct Inventorship and the Petition under § CFR under 1.183 to Suspend the Rules, filed concurrently on March 6, 2006. The Request is being treated as a petition under 37 CFR 1.48(a). The Petition under 37 CFR 1.183 is being treated as a petition requesting waiver of the requirements of 37 CFR 1.64. The requisite $130.00 (Fee Code 1464) and $400.00 (Fee Code 1462) petition fees have been submitted.

The petition under 37 CFR 1.48(a) is **DISMISSED**.

The petition under 37 CFR 1.183 is **DISMISSED**.

37 CFR 1.48(a), inventors added for claims to previously unclaimed subject matter requires:

> (1) a request to correct the inventorship that sets forth the desired inventorship change;
> (2) a statement from each person being added as an inventor that the error in inventorship occurred without deceptive intention on his or her part;
> (3) an oath or declaration by the actual inventors as required by § 1.63 or as permitted by §§ 1.42, 1.43, or § 1.47;
> (4) the processing fee set forth in § 1.17(i); and
> (5) if an assignment has been executed by any of the original named inventors, the written consent of the assignee (see § 3.73(b) of this chapter).

This petition is lacking item (3).

As to item (3):

Petitioner requests that the inventorship of the instant application be corrected by adding Dennis S. Gwak as a co-inventor. The originally named inventor, Eslee Buckley Barlow,

who signed the originally filed declaration, is allegedly refusing to sign the replacement declaration listing both Barlow and Gwak as co-inventors. In such circumstances, the USPTO will consider a petition under 37 CFR 1.183 requesting waiver or the requirements of 37 CFR 1.64 that each of the actual inventors execute the supplemental oath or declaration.

MPEP 603 states in part:

> "When an inventor who executed the original declaration is refusing or cannot be found to execute a required supplemental declaration, the requirement for that inventor to sign the supplemental declaration may be suspended or waived in accordance with 37 CFR 1.183. All available joint inventor(s) must sign the supplemental declaration on behalf of themselves, if appropriate, and on behalf of the nonsigning inventor. See MPEP § 409.03(a)."

In discussing waiver requirements under 37 CFR 1.183, the Office is guided by proof similar to that required when an applicant is unavailable or refuses to sign an original oath or declaration. Petitioner indicates that the non-signing inventor Barlow refuses to sign the replacement declaration.

MPEP 409.03(d) (II) states in part:

> "Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.
>
> Proof that a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient. When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. The document may be redacted to remove material not related to the inventor's reasons for refusal.
>
> When it is concluded...that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or statement of facts, such evidence should be submitted. Whenever a nonsigning inventor gives

a reason for refusing to sign the application oath or declaration, that reason should be stated in the petition."

In the present situation, the present petition, requesting waiver of the requirements under of 37 CFR 1.64, urges that "[t]he inventor Eslee Buckley Barlow, has been given the opportunity to cooperate in the correction of the inventorship and has refused to do so." Petitioner has not demonstrated with documented evidence that Barlow refuses to join in the application after having been presented with the application papers (specification, claims, drawings and oath or declaration). There is no discussion or statement of fact from the person having first hand knowledge that Barlow was presented with a copy of the complete application papers for this application to which the presented Declaration and Power of Attorney for Patent Application is directed. In addition, there is no evidence of record that shows that Barlow was also presented with a copy of the declaration for his signature. If Barlow was not presented with a copy of the application papers for this application, then he could not have (1) attested that he "reviewed and understand the application papers" and (2) executed the declaration he was requested to sign. Unless petitioner can show that copies of the application papers and the declaration were presented to Barlow, then petitioner will have to mail a copy of the complete application papers (specification, claims, and drawings) to the last known address of Barlow, return receipt requested. A cover letter of instructions should accompany the mailing of the application papers setting 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.

In addition, the present petition was not accompanied by the required statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Such statement should set forth a complete discussion of the facts surrounding Barlow's refusal to execute the current declaration as well as any existing documentary evidence that supports the conclusion that Barlow has refused to sign the declaration. The content of any accompanied documentary evidence should be specifically discussed in the statement of facts. In the event a refusal occurred orally, the statement of facts should also include a discussion of the oral refusal by the person having firsthand knowledge thereof.

For the reasons presented above, acceptance of the requested inventorship correction and declaration, at this time, is inappropriate.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Director for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571)273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter should be directed Brian W. Brown at (571) 272-5338.

Brian W. Brown
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : December 19, 2011

TO SPE OF : ART UNIT 3743

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/142565 Patent No.: 795943 2

CofC mailroom date: 12-14--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

Note: _____

_____

Magdalene Talley
Certificates of Correction Branch

571-272-0423 _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☑ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

K.B.M.
SPE

3743
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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KILPATRICK TOWNSEND & STOCKTON LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

MAILED
MAR 09 2011
OFFICE OF PETITIONS

In re Application of	:	
Eder	:	
Application No. 11/142,785	:	DECISION ON PETITION
Filed: May 31, 2005	:	
Attorney Docket No.AR-78	:	

This is a decision on the petition, filed November 10, 2010, 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 **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 above-identified application became abandoned for failure to timely file a proper reply within the meaning of 37 CFR 1.113 to the final Office Action of March 12, 2010. This application was held abandoned on June 13, 2010. A Notice of Abandonment was mailed on September 29, 2010.

Petitioner requests withdrawal of the advisory action and Notice of Abandonment. Petitioner maintains that the application has not been examined. Petitioner further contends that the Notice of Abandonment mailed September 29, 2010 is improper as petitioner did not learn of the need to file an appeal or an RCE until eleven days after the USPTO imposed deadline for filing an appeal or an RCE expired. Lastly, petitioner contends that the USPTO failed to give proper consideration to the petition to suspend prosecution.

Petitioner's argument has been considered but determined to be unpersuasive. A review of the record shows that a second Office action in the form of a final rejection was mailed on March 12, 2010. Although petitioner submitted an amendment to the final Office action on June 12, 2010, the advisory action mailed on June 21, 2010 informed applicant that amendment did not place the application in condition for allowance. Petitioner submitted the response on the last day of the shortened extendable time period. There was no undue delay in the mailing of the advisory action in light of the date the amendment was

submitted. Since a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b) was not submitted with an extension of time within the maximum extendable time period (September 12, 2010) the application was properly held abandoned

Further, pursuant to 37 CFR 1.116 (b) the admission of, or refusal to admit, any amendment after a final rejection, a final action, an action closing prosecution, or any related proceedings will not operate to relieve the application or patent under reexamination from its condition as subject to appeal or to save the application from abandonment under § 1.135, or the reexamination from termination. MPEP 711.03 (c) is clear that an amendment after final rejection will not operate to avoid abandonment of the application in the absence of a timely and proper appeal, when the applicant simply permits the maximum extendable statutory period for reply to expire while awaiting a notice of allowance or other action.

Lastly, it should be noted a request to suspend prosecution pursuant to 37 CFR 1.103 is under the jurisdiction of the Director of the Technology Center. See MPEP 1002.02(c)(9).

Thus, the application was properly held abandoned.

If petitioner cannot supply the evidence necessary to withdraw the holding of abandonment, or simply does not wish to, petitioner should consider filing a petition under 37 CFR 1.137(b) stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the $810 petition fee.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By facsimile: **(571) 273-8300**
Attn: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3215.

Charlema Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

MAILED

AUG 17 2010

OFFICE OF PETITIONS

In re Patent of Carlson et al.	:	DECISION ON REQUEST
Patent No. 7,670,298	:	FOR RECONSIDERATION OF
Issue Date: March 2, 2010	:	PATENT TERM ADJUSTMENT
Application No. 11/142,851	:	
Filing Date: June 1, 2005	:	
Attorney Docket No. 279.915US1	:	

This is a decision on the petition filed April 30, 2010, which is being treated as a petition under 37 C.F.R. § 1.705(d) requesting the patent term adjustment indicated on the patent be corrected to indicate the term of the patent is extended or adjusted by nine hundred twenty-nine (929) days.

The petition is **dismissed**.

The patent sets forth a patent term adjustment of 290 days, which does not include any increase for delay under delay under 35 U.S.C. § 154(b)(1)(B) ("B Delay"). The petition states the patent term adjustment should have included an increase of 639 days for B Delay.

A request for continued examination ("RCE") was filed October 12, 2007, less than three years after the filing date. Pursuant to 35 U.S.C. § 154(b)(1)(B)(i), B Delay does not include any time period consumed by continued examination. Therefore, the period of B Delay is 0 days and an increase in patent term adjustment for B Delay is unwarranted.

In view of the discussion above, the patent term adjustment indicated on the patent will not be changed.

Submission of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. No additional fee is required.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Date : 2/25/11
Patent No. : 7,287,443 B2
Serial No. : 11/142,860
Inventor(s) : Kuhstrebe et al.
Issued : October 30, 20107
Title : **MOTOR VEHICLE COMPRISING A DRIVE TRAIN HAVING A MULTIPLE CLUTCH DRIVE**
Docket No. : **4452-557DV1**

Re: Request for Reconsideration

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of 37 CFR 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 Fee(s) Transmittal Form PTOL-85B. After payment of the issue fee, correction of assignment data submitted on the PTOL-85B can only be done by Certificate of Correction under 37 CFR 1.323, with a request under 37 CFR 3.81(b).

A petition is required to correct the Assignee, under 37 CFR 1.183, and should include: (1) the petition fee set forth in 37 CFR 1.117(h) (currently $130); (2) the correct name and address of the assignee; (3) the reel and frame number where the assignment is recorded or proof of the date the assignment was submitted for recordation.

A request for a patent to be corrected to state the name of the assignee must:

A. state that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent;
B. include a request for a certificate of correction under 37 CFR 1.323 along with the fee set forth in 37 CFR 1.20(a); and
C. include the processing fee set forth in 37 CFR 1.17(i).

If the request is granted, Certificates of Correction Branch will be notified that a Certificate of Correction may be issued.
See Manual of Patent Examining Procedure, Section 1481.01 (Rev. 3) (Oct. 2005).

Applicant has not included items A and or C above, accordingly, the request for Certificate of

Correction to add or change the assignee data is dismissed.
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.

Ernest C. White, *LIE*
ernest.white@uspto.gov
(571) 272-3385
For Mary F. Diggs (703) 756-1580
Decisions & Certificates
of Correction Branch

COHEN, PONTANI, LIEBERMAN & PAVANE
Suite 1210
551 Fifth Avenue
New York NY 10176

ecw

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Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
www.uspto.gov

FROMMER LAWRENCE & HAUG
745 FIFTH AVENUE- 10TH FL.
NEW YORK NY 10151

MAILED
SEP 28 2011
OFFICE OF PETITIONS

In re	:	
Jens-Uwe Jurgensen	:	
Richard Stirling-Gallacher	:	
Paul James, Stefan Kornprobst	:	DECISION ON PETITION
and John Halton	:	UNDER 37 CFR 1.183
Reissue Application No. 11/142,887	:	
Filed: June 1, 2005	:	
Attorney Docket No. 450117-02158.1	:	

This reissue application is before the Office of Patent Legal Administration, for consideration of the "PETITION UNDER 37 C.F.R. SECTION 1.47," filed March 11, 2011, which is properly treated as a petition under 37 CFR 1.183. [1]

In this instance, waiver is sought with respect to the requirement in view of 37 CFR §§ 1.67, 1.172, and 1.175 that a supplemental declaration be executed by the named inventors in a broadening reissue application.

The fee for such consideration is being charged to petitioner's Deposit Account, as authorized.

The petition is **dismissed**.

BACKGROUND

The present reissue application of patent No. 6,574,212 (issued June 3, 2003) was filed on June 1, 2005, as a broadening reissue

[1] Once an application has received a fully executed oath or declaration that has 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.

application. The application filing included a written consent of assignee and a 3.73(b) statement. However, both documents were unsigned. On November 21, 2005, applicants filed a reissue declaration executed by all of the inventors, a signed written consent of assignee and a signed 3.73(b) statement.

By non-final Office action mailed October 19, 2010, the examiner advised applicant that the reissue declaration filed with the application is defective because it fails to contain the statement required under 37 CFR 1.175(a)(1). Further, the examiner advised that the reissue declaration filed November 21, 2005, fails to identify the specific patent claim(s) and the specific claim language wherein lies the error, and also, the alleged stated error no longer exists because of the amendment to claims filed May 10, 2010.

In response, applicant filed the instant petition. Accompanying the petition was a reissue declaration executed by joint inventors Jurgensen, Gallacher, James and Halton on behalf of themselves and on behalf of non-signing joint inventor Kornprobst.

DECISION

35 U.S.C. 251, which is directed to reissue, does not address the signature requirements of a declaration in reissue. 37 CFR 1.172 requires that a reissue declaration be made (and signed) by the inventors, except as otherwise provided (§§ 1.42, 1.43, 1.47), where the scope of the claims of the original patent is being enlarged. 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.

37 CFR 1.175(b)(1), taken in conjunction with § 1.172, requires a supplemental declaration to be signed by the inventor. 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 signature of the inventor.

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 a waiver of the requirement that the 37 CFR 1.175(b)(1) supplemental declaration be signed by the assignee.

The instant petition is not accompanied by an appropriate showing that the inventor is unavailable. Specifically, applicants alleged but fail to show that inventor Kornprobst could not be reached or found after diligent efforts to execute the supplemental declaration. The statement of patent coordinator Jessica Voigt indicates that the inventor could not be reached through the assignee as he no longer works for the assignee; a mailing to the inventor's home was returned; and that the coordinator has neither a current telephone number nor e-mail address for the inventor. No efforts are set forth of attempts to attain the inventor's current address, telephone number and/or email to successfully reach him to have him execute the supplemental declaration. In order to have the necessary proof required that the inventor cannot be reached or found *after diligent effort*, applicants must undertake such efforts and then, submit details of the efforts to reach or locate the non-signing inventor in an affidavit or declaration of facts by a person with firsthand knowledge of the details. In addition, applicants should submit documentary evidence such as the results of any E-mail or Internet searches.

Since the showing as to extraordinary circumstances is incomplete, § 1.183 cannot be invoked in order to waive § 1.172. Accordingly, this petition is being dismissed.

CONCLUSION

Any petition provided in response to this decision must be accompanied by sufficient proof that the inventor (i) cannot be found or reached after diligent effort or (ii) refuses to execute the declaration.

Any renewed petition in response to this decision must be filed within **ONE (1) MONTH** of the mailing date of this decision.

Jurisdiction over this application is being retained by the Office of Patent Legal Administration for the period set for response, after which it will be returned to Technology Center 2617 for further action not inconsistent with this decision.

Please direct any questions related to this decision to Nancy Johnson, Senior Petitions Attorney, at (571) 272-3219.

/Kenneth M. Schor/

Kenneth M. Schor
Senior Legal Advisor
Office of Patent Legal Administration

9-27-11
Kenpet9/...

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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BIB DATA SHEET

CONFIRMATION NO. 7493

SERIAL NUMBER	FILING or 371(c) DATE	CLASS	GROUP ART UNIT	ATTORNEY DOCKET NO.
11/142,941	06/02/2005 **RULE**	701	3661	038190/287196

APPLICANTS

John N. Sanders-Reed, Cedar Crest, NM;

**** CONTINUING DATA ***************************

**** FOREIGN APPLICATIONS ****************************

**** IF REQUIRED, FOREIGN FILING LICENSE GRANTED ****

		STATE OR COUNTRY	SHEETS DRAWINGS	TOTAL CLAIMS	INDEPENDENT CLAIMS
Foreign Priority claimed ☐ Yes ☑ No 35 USC 119(a-d) conditions met ☐ Yes ☑ No Verified and Acknowledged /CUONG H NGUYEN/ Examiner's Signature	☐ Met after Allowance Initials	NM	3	~~25~~ 18	3

ADDRESS

ALSTON & BIRD, LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000
UNITED STATES

TITLE

Systems and methods for remote display of an enhanced image

FILING FEE RECEIVED		
1250	FEES: Authority has been given in Paper No._____ to charge/credit DEPOSIT ACCOUNT No._____ for following:	☐ All Fees ☐ 1.16 Fees (Filing) ☐ 1.17 Fees (Processing Ext. of time) ☐ 1.18 Fees (Issue) ☐ Other _____ ☐ Credit

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DLA PIPER LLP (US)
4365 EXECUTIVE DRIVE
SUITE 1100
SAN DIEGO CA 92121-2133

MAILED

OCT 25 2011

OFFICE OF PETITIONS

In re Patent No. 7,348,437	:	
Issued: March 25, 2008	:	
Application No. 11/143,009	:	ON PETITION
Filed: June 1, 2005	:	
Attorney Docket No. SCRIP1730-1	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed September 16, 2011.

On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

It is not apparent whether the person signing the instant petition was ever given a power of attorney or authorization of agent regarding this patent. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BAKER BOTTS L.L.P.
30 ROCKEFELLER PLAZA
44TH FLOOR
NEW YORK NY 10112-4498

MAILED

MAY 10 2011

OFFICE OF PETITIONS

In re Application of	:	
Shanta M. MODAK et al.	:	
Application No. 11/143,012	:	NOTICE UNDER 37 CFR. 1.28(c)
Patent No. 7,563,461	:	
Filed: June 02, 005	:	
Attorney Docket No. **070050.2790**		

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to Michelle R. Eason at (571) 272-4231.

Thurman K. Page
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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BROOKS, CAMERON & HUEBSCH, PLLC
1221 NICOLLET AVENUE, SUITE 500
MINNEAPOLIS MN 55403

MAILED

OCT 19 2010

OFFICE OF PETITIONS

In re Application of	:
Craig Mason Bush et al	:
Application No. 11/143,071	: DECISION DISMISSING PETITION
Filed: June 2, 2005	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No.US-	:
0030.01|ENT3	:

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 **DISMISSED AS MOOT**.

Unfortunately, the petition was not referred to the appropriate deciding official for decision until after the issuance of this application into a patent. However, petitioner's attention is directed to 37 CFR 1.313(d), which states:

> A petition under this section will not be effective to withdraw the application from issue unless it is actually received and granted by the appropriate officials **before the date of issue.** (Emphasis added)

In this case, the petition was not received in the Office of Petitions for consideration until October 19, 2010, the date upon which the above-identified application issued as U.S. Patent No. 7,818,393. Since the case has now issued, the petition to withdraw from issue cannot be granted.

Additionally, petitioner is reminded to note MPEP § 1308.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

PTO/SB/131 (01-10)
Approved for use through 02/28/2011. OMB 0651-0020
U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH**

Attorney Docket Number: 020101C1	Patent Number: 7,664,764
Filing Date (or 371(b) or (f) Date): 06-01-2005	Issue Date: 2-16-2010
First Named Inventor: Zoltan Biacs	
Title: METHOD AND SYSTEM FOR STORAGE AND FAST RETRIEVAL OF DIGITAL TERRAIN MODEL ELEVATIONS FOR USE IN POSITIONING SYSTEMS	

PATENTEE HEREBY REQUESTS RECALCULATION OF THE PATENT TERM ADJUSTMENT (PTA) UNDER 35 USC 154(b) INDICATED ON THE ABOVE-IDENTIFIED PATENT. THE PATENTEE'S SOLE BASIS FOR REQUESTING THE RECALCULATION IS THE USPTO'S PRE-*WYETH* INTERPRETATION OF 35 U.S.C. 154(b)(2)(A).

Note: This form is only for requesting a recalculation of PTA for patents issued before March 2, 2010, if the sole basis for requesting the recalculation is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A). See Instruction Sheet on page 2 for more information.

Patentees are reminded that to preserve the right to review in the United States District Court for the District of Columbia of the USPTO's patent term adjustment determination, a patentee must ensure that he or she also takes the steps required under 35 U.S.C. 154(b)(3) and (b)(4) and 37 CFR 1.705 in a timely manner.

**Wyeth v. Kappos*, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).

Signature	Date 08-02-2010
Name (Print/Typed) Shyam K. Parekh	Registration Number 62767

***Note**: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required in accordance with 37 CFR 1.33 and 11.18. Please see 37 CFR 1.4(d) for the form of the signature. If necessary, submit multiple forms for more than one signature, see below**.*

☑ *Total of 1 forms are submitted.

The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

PTO/SB/131 (01-10)
Approved for use through 02/28/2011. OMB 0651-0020
U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

Instruction Sheet for: REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH**

(Not to be Submitted to the USPTO)

This form is only for requesting a recalculation of PTA for patents issued before March 2, 2010, if the sole basis for requesting the recalculation is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A).

This form must be filed within 180 days of the day the patent was granted, with the following exception:

> Patentees who received a decision from the USPTO under the USPTO's pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A) may file a request for reconsideration of that decision if such a request for reconsideration is filed within **two months** of the date of the decision (37 CFR 1.181(f)). If the patentee's sole basis for requesting reconsideration of the decision is the USPTO's pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A), the request for reconsideration need only state that reconsideration is being requested in view of Wyeth (this form may be used for this purpose if it is filed within **two months** of the date of the decision from the USPTO).

Do not use this form if the application has been allowed, but not yet issued as a patent.

1. **For patents issued before March 2, 2010:** A request for reconsideration under 37 CFR 1.705(d) and the fee set forth in 37 CFR 1.18(e) are not required, provided that the patentee's sole basis for requesting recalculation of the PTA in the patent is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A) and this form is filed within 180 days of the day the patent was granted.

2. **For patents issued on or after March 2, 2010 (do not use this form):** Patentees seeking a revised PTA in a patent issued on or after March 2, 2010, must file a request for reconsideration under 37 CFR 1.705(d) that complies with the requirements of 37 CFR 1.705(b)(1) and (b)(2) within two months of the day the patent issued.

For more information, see "Notice Concerning Calculation of the Patent Term Adjustment With Respect to the Overlapping Delay Provision of 35 U.S.C. 154(b)(2)(A)" available on the USPTO Web site at http://www.uspto.gov/patents/law/notices/2010.jsp.

**Wyeth v. Kappos*, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).

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United States Patent and Trademark Office
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www.uspto.gov

QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO, CA 92121

Mail Date: 08/13/2010

Applicant	: Zoltan Biacs	: DECISION ON REQUEST FOR
Patent Number	: 7664764	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/143,350	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/01/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **605** 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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KILPATRICK TOWNSEND & STOCKTON LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

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SEP 16 2011
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In re Application of	:	
Xiao Yang	:	
Patent No. 7,298,539	:	
Issued: November 20, 2007	:	NOTICE
Application No. 11/143,363	:	
Filed: June 1, 2005	:	
Attorney Docket No. **021713-003700US**	:	

This is a notice regarding your request filed August 26, 2011, for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-4584.

/JoAnne Burke/
JoAnne Burke
Petitions Examiner
Office of Petitions

UNITED STATES 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
DEC 16 2010
OFFICE OF PETITIONS

In re Patent No. 7,517,485 :
Frederick W. Zeyfang et al :
Application No. 11/143,447 :
Filed: June 3, 2005 :
Attorney Docket No. 3914-0115PUS1 :

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 on August 25, 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
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Alexandria, VA 22313-1450
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MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

MAILED

NOV 03 2011

OFFICE OF PETITIONS

In re Application of	:
Desai et al.	: DECISION ON PETITION
Application No. 11/143,559	: UNDER 37 CFR 1.78(a)(3)
Filed: June 2, 2005	: AND 37 CFR 1.78(a)(6)
Attorney Docket No. 16039US02	:

This is a decision on the petition under 37 CFR 1.78(a)(3) and 1.78(a)(6), filed October 11, 2011, to accept an unintentionally delayed claim under 35 U.S.C. § 120 and 119(e) for the benefit of the prior-filed applications set forth in the amendment filed concurrently with the instant petition.

The petitions are **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

> **(1)** the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
> **(2)** the surcharge set forth in § 1.17(t); and
> **(3)** a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional where there is a question whether the delay was unintentional.

The instant nonprovisional application was filed on June 2, 2005 and was pending at the time of filing of the instant petition. A reference to the prior-filed applications has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR §§ 1.78(a)(2)(iii) and 1.78(a)(5)(iii).

The instant nonprovisional application was filed after November 29, 2000, and the claim for priority herein is submitted after expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). *See* 35 U.S.C. § 120 and § 119(e). Accordingly, having found that the instant petition satisfies the conditions of 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) for acceptance of an unintentionally delayed claim for priority under 35 U.S.C. § 120 and § 119(e), the petition to accept an unintentionally delayed claim of benefit to the prior-filed applications is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should not be construed as meaning that the

instant application is entitled to the benefit of the filing date of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §120 and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed applications, accompanies this decision on petition.

37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) require a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. Since the statement appearing in the petition varies from the language required 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii), 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.

Any questions concerning this matter may be directed to Joan Olszewski at (571) 272-7751.

This matter is being referred to Technology Center Art Unit 2618 for appropriate action on the Amendment submitted October 11, 2011, including consideration by the examiner of the claim under 35 U.S.C. § 120 and 37 CFR 1.78(a)(2) for the benefit of the prior-filed nonprovisional application, and for consideration of the claim under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(5) for the benefit of the prior-filed provisional application.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

cc: **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
11/143,559	06/02/2005	2618	6924	16039US02	27	6

CONFIRMATION NO. 9547

CORRECTED FILING RECEIPT

15650
TKHR (Broadcom)
400 INTERSTATE NORTH PARKWAY SE
SUITE 1500
ATLANTA, GA 30339

OC000000050742761

Date Mailed: 11/02/2011

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)

Prasanna Desai, Olivenhain, CA;
Brima Ibrahim, Aliso Viejo, CA;

Power of Attorney: The patent practitioners associated with Customer Number 15650

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/600,394 08/09/2004
and is a CIP of 10/387,249 03/12/2003
which claims benefit of 60/400,226 08/01/2002

Foreign Applications (You may be eligible to benefit from the **Patent Prosecution Highway** program at the USPTO. Please see http://www.uspto.gov for more information.)

If Required, Foreign Filing License Granted: 07/05/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/143,559**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Method and system for achieving enhanced quality and higher throughput for collocated IEEE 802.11B/G and bluetooth devices in coexistent operation

Preliminary Class

455

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where

the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 1/3/12

TO SPE OF : ART UNIT: 2436

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/143,631 Patent No. 7,765,403

CofC mailroom date 12/19/12

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

Ernest C. White, LIE

Certificates of Correction Branch

703-756-1814 _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

X	**Approved**	**All** changes apply.
☐	**Approved in Part**	Specify below which changes **do not** apply.
☐	**Denied**	State the reasons for denial below.

Comments: _____

/Nasser Goodarzi/ 2436
SPE **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 1/3/12

TO SPE OF : ART UNIT: 2436

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/143,631 Patent No. 7,765,403

CofC mailroom date 12/19/12

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

Ernest C. White, LIE

Certificates of Correction Branch

703-756-1814 _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

X	**Approved**	**All** changes apply.
☐	**Approved in Part**	Specify below which changes **do not** apply.
☐	**Denied**	State the reasons for denial below.

Comments: _____

/Nasser Goodarzi/ 2436
SPE **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20101018

DATE : October 18, 2010

TO SPE OF : ART UNIT 1618

SUBJECT : Request for Certificate of Correction on Patent No.: 7195779

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:

/MICHAEL G HARTLEY/
Supervisory Patent Examiner.Art Unit 1618

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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INTEGRAL DOCKET
304 INDIAN TRACE, #750
WESTON, FL 33326

MAILED

OCT 03 2011

OFFICE OF PETITIONS

In re Application of
Thomas Aisenbrey
Application No. 11/143,798
Filed: June 2, 2005
Attorney Docket No. 2200-0052

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 September 29, 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.

Petitioner should not that the Office will no longer accept address changes to a new practitioner of a law firm file with a Request to Withdraw, 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 3071 or, the most current address information provided for the first named inventor.

Accordingly, the request to withdraw from record does not include an acceptable current correspondence address for future communications from the Office.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (e.g., copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (e.g., reel and frame number).

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to 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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

December 20, 2011

KEVIN FARRELL
PIERCE ATWOOD
100 SUMMER STREET
SUITE 2250
BOSTON MA 02110

In re Application of	:	
Kevin P. Campbell et al.	:	**DECISION ON PETITION**
Application No. 11143885	:	
Filed: 06/02/2005	:	***ACCEPTANCE OF COLOR***
Attorney Docket No. **UIRF-2014US01**	:	***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) June 2, 2005.

The petition is **GRANTED**.

A grantable petition under 37 C.F.R. 1.84(a) (2) must be accompanied by the following.

1. The fee set forth under 37 C.F.R. 1.17(h),
2. Three (3) sets of the color drawings in question, or (1) set if filed via EFS, and
3. The specification contains appropriate language referring to the color drawings as the first paragraph in that portion of the specification relating to the brief description of the drawings.

The petition was accompanied by all of the required fees and drawings. The specification contains the appropriate language. Therefore, the petition is GRANTED.

Telephone inquires relating to this decision may be directed to the undersigned in the Office of Data Management at 571-272-4200.

/Laura Feldman/
Quality Control Specialist
Office of Data Management
Publications Branch

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

CLIFFORD A. POFF
9800B MCKNIGHT ROAD
SUITE 115
PITTSBURGH PA 15237

MAILED
AUG 05 2010
OFFICE OF PETITIONS

In re Application of	:	
Christopher Rose	:	
Application No. 11/143,894	:	DECISION ON PETITION
Filed: June 2, 2005	:	
Attorney Docket No. 20484-2	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 6, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to reply in a timely manner to the final Office action mailed June 9, 2009. No extensions of time under the provisions of 37 CFR 1.136(a) were timely obtained. Accordingly, this application became abandoned on September 10, 2009. A Notice of Abandonment was mailed December 15, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $405.00 and the submission required by 37 CFR 1.114; (2) the petition fee of $810.00; and (3) a proper statement of unintentional delay.

Additionally, an extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $555.00, three- month extension of time fee submitted with the petition on July 6, 2010 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be refunded to petitioner via treasury check in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

This matter is being referred to Technology Center 3772 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

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.
11/143,894	06/02/2005	Christopher Rose	20484-2	9385

572 7590 08/18/2010
CLIFFORD A. POFF
9800B MCKNIGHT ROAD
SUITE 115
PITTSBURGH, PA 15237

EXAMINER
NGUYEN, CAMTU TRAN

ART UNIT	PAPER NUMBER
3772	

MAIL DATE	DELIVERY MODE
08/18/2010	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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CLIFFORD A. POFF
9800B MCKNIGHT ROAD
SUITE 115
PITTSBURGH PA 15237

In re Application of	:	
Christopher Rose	:	
Application No. 11/143,894	:	DECISION ON PETITION
Filed: June 2, 2005	:	
Attorney Docket No. 20484-2	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 6, 2010, to revive the above-identified application.

The petition is **GRANTED**.

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Additionally, an extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $555.00, three- month extension of time fee submitted with the petition on July 6, 2010 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be refunded to petitioner via treasury check in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

This matter is being referred to Technology Center 3772 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

UNITED STATES 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 5, 2011

Patent No. : 7,651,009 B2
Appl. No. : 11/143,976
Inventor(s) : Bradford S. Grant
Issued : January 26, 2010
Title : **LIQUID DISPENSING DEVICE**
Docket No. : **PCH0899USNP**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this mater, is hereby denied.

All petitions for correction of Assignees' names under rule 3.81(b) should:

(A) state that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent;

(B) include a request for a certificate of correction under 37 CFR 1.323 along with the fee set forth in 37 CFR 1.20(a); (unless fee (currently $100) was previously paid for consideration of request for certificate of correction)

(C) include the processing fee set forth in 37 CFR 1.17(i).

The petition under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314
(Hours of operation are 8:30 a.m. to midnight, Eastern Standard Time, Monday through Friday)

By fax: (571) 273-8300
ATTN: Office of Petitions

Antonio Johnson
For Mary F. Diggs
Decisions & Certificates
of Correction Branch
(571)272-0483

Johnson & Johnson
201 TABOR ROAD
MORRIS PLAINS NJ 07950

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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NOV 22 2010
OFFICE OF PETITIONS

HITACHI C/O WAGNER BLECHER LLP
123 WESTRIDGE DRIVE
WATSONVILLE CA 95076

In re Application of	:	
Satya Prakash ARYA	:	
Application No. 11/143,990	:	DECISION ON PETITION
Filed: June 2, 2005	:	
Docket No. HSJ920040389US2	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 26, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, October 9, 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 10, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1620; and (3) and the required statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

This application is being referred to Technology Center AU 2627 for appropriate action by the Examiner in the normal course of business.

/Diane C. Goodwyn/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

Doc Code: PET.AUTO **Document Description: Petition automatically granted by EFS-Web**	PTO/SB/83 U.S. Patent and Trademark Office Department of Commerce

Electronic Petition Request	**REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS**
Application Number	11144003
Filing Date	02-Jun-2005
First Named Inventor	Michelle Tecco
Art Unit	1615
Examiner Name	BETHANY BARHAM
Attorney Docket Number	50172/P002US
Title	Personal skin care compositions containing anti-flammatory and anti-microbial agents

◉ Please withdraw me as attorney or agent for the above identified patent application and the practitioners of record associated with Customer Number: 61060

The reason(s) for this request are those described in 37 CFR:

10.40(b)(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	Michelle Tecco
Address	3411 Preston Road Suite C-13-216
City	Frisco
State	TX
Postal Code	75034
Country	US

I am authorized to sign on behalf of myself and all withdrawing practitioners.	
Signature	/Lekha Gopalakrishnan/
Name	Lekha Gopalakrishnan
Registration Number	46733

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 : April 4,2011

In re Application of :

Michelle Tecco

Application No : 11144003

Filed : 02-Jun-2005

Attorney Docket No : 50172/P002US

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 4,2011

The request is **APPROVED.**

The request was signed by Lekha Gopalakrishnan (registration no. 46733) on behalf of all attorneys/agents associated with Customer Number 61060 . All attorneys/agents associated with Cusotmer Number 61060 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	Michelle Tecco
Name2	
Address 1	3411 Preston Road
Address 2	Suite C-13-216
City	Frisco
State	TX
Postal Code	75034
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.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: 1004-241	
Application Number: 11/144,094	Filing Date (or 371(b) or (f) Date): June 2, 2005
Patent Number: 7,664,136	Issue Date: February 16, 2010
First Named Inventor: John Albert Toebes	
Title: Inline Power for Multiple Devices in a Wired Data Telecommunications 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 /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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BAINWOOD HUANG & ASSOCIATES LLC
2 CONNECTOR ROAD
WESTBOROUGH, MA 01581

Mail Date: 08/17/2010

Applicant	: John Albert Toebes	: DECISION ON REQUEST FOR
Patent Number	: 7664136	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/144,094	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/02/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **903** 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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NEW YORK NY 10036-8704

MAILED
OCT 20 2010
OFFICE OF PETITIONS

In re Patent of Cohen et al.	:	DECISION ON REQUEST
Patent No. 7,700,742	:	FOR RECONSIDERATION OF
Issue Date: April 20, 2010	:	PATENT TERM ADJUSTMENT
Application No. 11/144,222	:	and
Filed: June 2, 2005	:	NOTICE OF INTENT TO ISSUE
Docket No. 000659-0032-103	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on June 18, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by eight hundred ninety-six (896) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by eight hundred ninety-six (896) days is **granted to the extent indicated herein.**

Patentees assert the total period of adjustment is 896 days, which is the sum of 465 days of A delay and 687 days of B delay minus 86 overlapping days, reduced by 170 days of applicant delay.

The Office concurs that the period of A delay is 465 days. Pursuant to 37 CFR 1.702(a)(4), the Office should have entered an adjustment for the delay in issuing the patent not later than four months after the date on which the issue fee was paid and all outstanding requirements were satisfied. Applicants submitted the issue fee on September 24, 2009. The patent did not issue until four months and 86 days later. Accordingly, pursuant to 37 CFR 1.702(a)(4), a period of adjustment of 86 days is being entered.

Patentees argue the period of B delay is 601 days (687 days minus 86 overlapping days). The Office concurs that the maximum

period of B delay is 687 days, beginning on June 3, 2008, the day after three years after the filing date of the application, and ending on April 20, 2010, when the patent issued. The Office concurs that 86 days of A delay overlap with a portion of the 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 30 day period beginning on May 26, 2009, the date the Notice of Appeal was filed, and ending on June 24, 2009, the date the Office mailed a Notice of Allowance and Fee(s) Due. Excluding the 30 days consumed by appellate review and taking the 86 overlapping days into consideration results in a period of B delay of 571 days (687 - 86 - 30).

Patentees argue the period of Applicant delay is 170 days, which is the sum of 25 + 64 + 2+ 79.

Patentees argue that the Office should not charge applicants with reductions for the Information Disclosure Statements (IDSs) filed on January 7, 2008 (27 days) and September 2, 2009 (76 days) because they submitted the IDSs in keeping with their duty of candor and good faith. The issue is the *timing* of the filing of the IDSs. If an IDS is filed after a reply is filed, the examiner must delay issuing an Office action in order to review the supplemental paper. Similarly, if an amendment or other paper is submitted after an application is allowed, it may cause substantial interference with the patent issue process. MPEP 2732. An IDS filed after the mailing of a notice of allowance causes interference with the patent issue process because the examiner must address it before the patent issues. Both cases constitute a failure of an applicant to engage in reasonable efforts to conclude the processing or examination of an application.

With respect to the January 7, 2008 IDS: After applicants filed a reply on December 11, 2007 to a restriction requirement, applicants submitted a supplemental reply or paper in the form of an Information Disclosure Statement (IDS) on January 7, 2008. The record does not support a conclusion that the examiner expressly requested the filing of the IDS. Further, a review of the IDS, filed January 7, 2008, reveals that applicants did not

include a statement under 37 CFR 1.704(d).[1] Thus, applicants failed to engage in reasonable efforts to conclude prosecution of the application. The period of adjustment was properly reduced by 27 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, December 12, 2007, and ending on the date that the IDS was filed, January 7, 2008.

With respect to the IDS filed on September 2, 2009: A reduction of 66 days, not 76 days, is in order.

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;

Pursuant to 37 CFR 1.704(c)(10), the Office should have entered a period of reduction of 66 days, counting the number of days in the period beginning on September 2, 2009, the date the IDS was filed, and ending on and including November 6, 2009, the date the Office action in response to the IDS was mailed. Accordingly the period of reduction of 76 days will be removed and a period

---

[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.

of 66 days will be entered in connection with the filing of an IDS on September 2, 2009.

Patentees argue that that the 44 day reduction, pursuant to 37 CFR 1.704(c)(10), for the amendment under 37 CFR 1.312 should be removed. The Office concurs. The 44 day reduction, beginning on September 24, 2009, the date the amendment under 37 CFR 1.312 was filed, and ending on November 6, 2009, the date the response to the amendment under 37 CFR 1.312 was mailed, is completely subsumed in the reduction for the IDS filed on September 2, 2009 and addressed in an Office communication mailed on November 6, 2009. Therefore, the 44 day reduction is being removed.

A review of the patent term adjustment calculations for the application reveals another reduction. On January 27, 2010, applicants filed an Information Disclosure Statement. The record does not support a conclusion that the examiner expressly requested the filing of the IDS. Further, a review of the IDS, filed January 27, 2010, reveals that applicants did not include a statement under 37 CFR 1.704(d). Pursuant to 37 CFR 1.704(c)(10), a 28 day reduction, beginning on January 27, 2010, the date the IDS was filed, and ending on February 23, 2010, the date the Office mailed a communication addressing the IDS was mailed, is being entered.

The total Applicant delay is 291 (25 + 27 + 2 + 64 + 79 + 66 + 28) days.

In light thereof, the correct patent term adjustment is 745 days, which is the sum of 465 days of delay under 35 U.S.C. 154(b)(1)(A) and 571 (657 - 30 excluded - 86 overlapping)days of B Delay, reduced by 291 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 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 forty-five (745)** days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,700,742 B2

DATED : **April 20, 2010** **DRAFT**

INVENTOR(S) : Cohen 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 720 days

Delete the phrase "by 720 days" and insert – by 745 days--

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SEP 29 2011

OFFICE OF PETITIONS

In re Patent of Cohen et al.	:	
Patent No. 7,700,742	:	ON
Issue Date: April 20, 2010	:	REQUEST FOR RECONSIDERATION
Application No. 11/144,222	:	OF
Filed: June 2, 2005	:	DECISION ON APPLICATION
Docket No. 000659-0032-103	:	FOR
For: ANTIBODIES TO INSULIN-LIKE GROWTH FACTOR I RECEPTOR	:	PATENT TERM ADJUSTMENT

This is a decision on the "PETITION FOR RECONSIDERATION OF DECISION ON PATENT TERM ADJUSTMENT," filed November 19, 2010, requesting reconsideration of the decision of October 20, 2010, and requesting that the patent term adjustment determination under 35 U.S.C. § 154(b) in the decision of October 20, 2010, be changed from 745 days to 896 days.

The request for reconsideration of the decision of October 20, 2010, is granted to the extent that the decision of October 20, 2010, has been reconsidered; however, the petition under 37 CFR 1.705(d) is **dismissed**.

In addition, the petition under 37 CFR 1.183 is **dismissed**.

There will be no change in the patent adjustment determination under 35 U.S.C. § 154(b) of 745 days indicated in the decision of October 20, 2010.

BACKGROUND

On April 20, 2010, the above-identified application matured into U.S. Patent No.7, 700,742, with a revised patent term adjustment of 720 days. On June 18, 2010, Patentees timely submitted a petition for reconsideration of patent term adjustment (with

required fee), asserting that the correct number of days of Patent Term Adjustment is 896 days. On October 20, 2010, the Office mailed a decision indicating the patent term adjustment is 745 days and affording Patentees with a 30 day/1 month period to contest the decision. Patentees timely filed the present petition on November 19, 2010.

Patentees assert the Office incorrectly calculated Office delay pursuant to 37 CFR 1.702(b). Patentees concur that the maximum B delay period is 687 days and that 86 days are overlapping with a portion of the period of A delay. However, Patentees argue the Office improperly excluded thirty (30) days under 37 C.F.R. 1.703(b)(4) as time consumed by appellate review. Patentees argue there never was any appellate review by the Board because the Board never assumed jurisdiction over this case, much less carried out any "review." As such, Patentees maintain that the "B delay" should include the 30 days and be increased from 571 to 601 days.

Patentees dispute a reduction pursuant to 37 CFR 1.704(c)(8) for the filing of a supplemental Information Disclosure Statement("IDS") on January 7, 2008, after a reply to a restriction requirement was filed on December 11, 2007.

Patentees dispute two reductions pursuant to 37 CFR 1.704(c)(10) for the filing of supplemental IDSs on September 2, 2009 and January 27, 2010, respectively, after the mailing of a notice of allowance on June 24, 2009.

Patentees conclude that the correct patent term adjustment is 896 days (the sum of 465 days of "A delay" and 601 days of "B delay" minus 170 days of Applicant delay).

RELEVANT STATUTE AND REGULATIONS

The statutory basis for calculation of "B delay" is 35 U.S.C. 154(b)(1)(B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY, which provides that:

Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including —

(i) any time consumed by continued examination of the application requested by the applicant under section 132(b);

(ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or

(iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued.

The implementing regulation, 37 CFR 1.702(b) provides that:

Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application, but not including:

(1) Any time consumed by continued examination of the application under 35 U.S.C. 132(b);

(2) Any time consumed by an interference proceeding under 35 U.S.C. 135(a);

(3) Any time consumed by the imposition of a secrecy order under 35 U.S.C. 181;

(4) Any time consumed by review by the Board of Patent Appeals and Interferences or a Federal court; or

(5) Any delay in the processing of the application by the Office that was requested by the applicant.

37 CFR 1.704(c) provides: 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;

...

10) Submission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the lesser of:

(i) The number of days, if any, beginning on the date the amendment under § 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or such other paper;

or

(ii) Four months;

OPINION

Patentees' arguments have been considered, but not found persuasive.

The provisions of 37 C.F.R. § 1.703(b)(4) implement 35 U.S.C. § 154(b)(1)(B)(ii). Pursuant to 37 C.F.R. § 1.703(b)(4), the period of B Delay does not include,

> 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.

The petition asserts 37 C.F.R. § 1.703(b)(4) excludes too many days because the filing of a notice of appeal does not commence the time period of appellate review by the Board.

Although the petition asserts the period of appellate review begins when jurisdiction is transferred to the Board, the

petition fails to cite any court decision or legislative history to support such an assertion.

The Office has considered the arguments in the petition and concluded the phrase "time consumed by appellate review by the Board" in 35 U.S.C. § 154(b)(1)(B)(ii) begins when a notice of appeal is filed.

The phrase "appellate review by the Board" appears twice in 35 U.S.C. § 154(b). The fact the identical phrase is used in another location in the same statute is relevant because "identical words used in different parts of the same statute are ... presumed to have the same meaning." *IBP, Inc. v. Alvarez*, 546 U.S. 21, 34 (2005).

Pursuant to 35 U.S.C. § 154(b)(1)(C)(iii), successful "appellate review by the Board" will result in an adjustment for delay resulting from the appeal. The Office has interpreted 35 U.S.C. § 154(b)(1)(C)(iii) to provide for an adjustment based on delay beginning when a notice of appeal has been filed. 37 C.F.R. § 1.703(e) states, with emphasis added,

> The period of adjustment under § 1.702(e) is the sum of 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 a final decision in favor of the applicant 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.

The Office's interpretation of 35 U.S.C. § 154(b)(1)(C)(iii) is supported by language in 35 U.S.C. § 154(b) prior to passage of the Patent Term Guarantee Act of 1999, Pub. L. No. 106-113, § 4402, 113 Stat. 1501A-557. Prior to passage of the Patent Term Guarantee Act of 1999, 35 U.S.C. §§ 154(b)(2)-(3) stated, with emphasis added,

> Extension for *appellate review*. If the issue of a patent is delayed due to *appellate review* by the Board of Patent Appeals and Interferences or by a Federal court and the patent is issued pursuant to a decision in the review reversing an adverse determination of patentability, the term of the patent shall be extended for a period of time but in no case more than 5 years....

> The period of extension ... shall include any period *beginning on the date on which an appeal is filed under section 134 or 141 of this title*, or on which an action is commenced under section 145 of this title, and ending on the date of a final decision in favor of the applicant.

As shown by the language quoted above, the period of appellate review in the former version of 35 U.S.C. § 154(b) began when a notice of appeal was filed. When Congress passed the Patent Term Guarantee Act of 1999, Congress failed to take any action to indicate Congress wished to change the starting date for the period of "appellate review" from the date a notice of appeal is filed until the date the application file is transferred to the Board.

In view of the prior discussion, the Office has reasonably concluded the period of "appellate review by the Board" under 35 U.S.C. § 154(b)(1)(C)(iii) begins when a notice of appeal is filed. Since identical words or phrases in the same statute are presumed to have the same meaning, the Office asserts the period of "appellate review" under 35 U.S.C. § 154(b)(1)(B)(ii) also begins when a notice of appeal is filed. The Office recognizes the presumption the same word or phrase in a statue has the same meaning is rebuttable. *See Envtl. Def. v. Duke Energy Corp.*, 549 U.S. 561, 575-76 (2007). However, the context of each instance of the phrase in the statute at issue fails to clearly indicate Congress intended for the same phrase to have two different meanings.

The Office has considered the arguments in the petition and determined the petition fails to establish the provisions of 37 C.F.R. § 1.702(b)(4) are inconsistent with the provisions of 35 U.S.C. § 154(b)(1)(B)(ii). Pursuant to 37 C.F.R. § 1.702(b)(4), the time period excluded from delay under 37 C.F.R. § 1.702(b) begins when a notice of appeal is filed. In other words, the appellate review period excluded from the period of B Delay begins when a notice of appeal is filed.

In this case, the period of appellate review began when a notice of appeal was filed on May 26, 2009, and ended on June 24, 2009, when the Office mailed a Notice of Allowance. The time consumed by the period of appellate review was 30 days. Therefore, the Office properly excluded 30 days from the period of B Delay as a result of time consumed by appellate review and the period of B delay remains 571(687-86-30) days.

Patentees object to (1) a reduction pursuant to 37 CFR 1.704(c)(8) for the filing of a supplemental Information Disclosure Statement("IDS") on January 7, 2008, after a reply to a restriction requirement was filed on December 11, 2007 and (2) two reductions pursuant to 37 CFR 1.704(c)(10) for the filing of supplemental IDSs on September 2, 2009 and January 27, 2010, respectively, after the mailing of a notice of allowance on June 24, 2009.

Patentees argue they did not fail to engage in reasonable efforts to conclude prosecution by submitting the January 7, 2008 IDS and the September 2, 2009 IDS because they submitted relevant documents cited in a copending related application, as required by law; and they did so in a timely manner.

37 CFR 1.704(c)(8)provides for a reduction in patent term adjustment for the submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the initial reply was filed and ending on the date that the supplemental reply or other such paper was filed. The language of the rule calls for a reduction for the submission of a supplemental reply after a reply has been filed, unless the supplemental reply was expressly requested by the examiner. There is no dispute that the January 7, 2008 IDS was filed after the December 11, 2007 reply to the restriction requirement. There is no evidence in the record that the examiner expressly requested the filing of the January 7, 2008 IDS, and Patentees have not asserted the January 7, 2008 IDS was filed at the request of the examiner. The January 7, 2008 IDS did not include a statement under 37 CFR 1.704(d).[1] It is noted

[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 has **not** revised 37 CFR 1.704(d) to embrace information first cited in a communication from the Office, as well as the communication (e.g., Office action) in a counterpart foreign or international application or from the Office itself.

37 CFR 1.704(c)(10) provides for a reduction in patent term adjustment for the 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. There is no exception for papers expressly requested by the examiner. The September 2, 2009 IDS and the January 27, 2010 IDSs did not include a statement under 37 CFR 1.704(d).[2] As stated above, the Office has **not** revised 37 CFR 1.704(d) to embrace information first cited in a communication from the Office, as well as the communication (e.g., Office action) in a counterpart foreign or international application or from the Office itself.

In short, there are currently no exceptions to cover the filing of the IDSs on January 7, 2008, September 2, 2009, and November 6, 2009.

Accordingly, pursuant to 37 CFR 1.704(c)(8), a 27 day reduction was properly entered in connection with the filing of the January 8, 2008 IDS, counting the number of days beginning on the day after the date the initial reply was filed, December 12, 2007, and ending on the date that the IDS was filed, January 7, 2008.

Pursuant to 37 CFR 1.704(c)(10), the Office properly entered a period of reduction of 66 days in connection with the IDS filed on September 2, 2009, counting the number of days in the period beginning on September 2, 2009, the date the IDS was filed, and ending on and including November 6, 2009, the date the Office action in response to the IDS was mailed.

Pursuant to 37 CFR 1.704(c)(10), the Office properly entered a 28 day reduction in connection with the IDS filed on January 27, 2010, beginning on January 27, 2010, the date the IDS was filed, and ending on February 23, 2010, the date the Office mailed a communication addressing the IDS. Patentees' argument that since

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[2] See footnote 1

the January 27, 2010 IDS was not considered by the examiner on the merits, but merely placed the application file, that it should not be the basis for a reduction is not persuasive. 37 CFR 1.704(c)(10) calls for a reduction to be measured from the filing of the post allowance paper to the date the Office mails a communication in reply. The rule does not speak to the content of the Office's reply. The examiner had to review the filing in order to mail a reply and that review delayed issuance of the patent.

Petitioners request consideration under 37 CFR 1.183. 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 Director to determine the definitions of the terms "extraordinary" and "as justice requires" as the terms are used in 37 CFR 1.183.

The Director drafted the federal regulations which may be waived including 37 CFR 1.183. The Director 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.

There is no adequate showing of "an extraordinary situation" in which "justice requires" suspension of the rules. Therefore, the petition under 37 CFR 1.183 is subject to dismissal.

It is noted that the Office issued a Notice of proposed rulemaking entitled Revision of Patent Term Extension and Adjustment Provisions Relating to Appellate Review and Information Disclosure Statements, 76 FR 18990 (April 6, 2011). To the extent that the final rule on Revision of Patent Term Extension and Adjustment Provisions Relating to Appellate Review revises the interpretation of appellate review applied in this decision, Patentees are given one (1) month or thirty (30) days, whichever is longer, from the date of the final rule to file a request for reconsideration. No extensions of time will be granted under § 1.136. The final rule should clearly address the treatment of IDS filed under patentees' circumstances.

If patentees are able, patentees are requested to file a slightly modified version of the 30 day certification in 37 CFR 1.704(d) to address U.S. applications or IDS from U.S. applications.

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.

CONCLUSION

The patent term adjustment remains 745 days, as indicated in the decision of October 20, 2010. It is noted a certificate of correction listing the patent term adjustment as 745 days was issued on February 22, 2011.

The Office acknowledged submission of the $200.00 fee set forth in 37 CFR 1.18(e) in the petition decision of October 20, 2010. No additional fees were required. Therefore, the $200.00 fee submitted with present petition will be refunded to deposit account no. 06-1075. The Rule 183 petition fee of $400.00 will be charged to deposit account no. 06-1075.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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SEP 10 2010

OFFICE OF PETITIONS

In re Application of :
Cohen, et al. :
Application No. 11/144,248 : ON APPLICATION FOR
Filed: June 2, 2005 : PATENT TERM ADJUSTMENT
Attorney Docket No. 000659-0032-102:

This is in response to the "APPLICATION PATENT TERM ADJUSTMENT" filed March 30, 2010, which is properly treated under 37 CFR 1.705(b). Applicants submit that the correct patent term adjustment to be indicated on the patent is nine hundred thirty-two (932) days, not two hundred thirteen (213) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction, in part, on the basis that the Office will take in excess of three years to issue this patent.

Relative to the any assertion that the Office will take in excess of 3 years of the filing date to issue this patent, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the

initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

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 the mailing of the Notice of Allowance is two hundred and thirty-one (231) days. A copy of the updated PALM screen, showing the corrected determination, is enclosed.

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[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

On December 30, 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 213 days. On March 20, 2010, applicants submitted the instant comment. Applicants state that: 1) the adjustment under 37 CFR 1.703(a)(2) for the mailing of an Office action on February 24, 2009, should be 15 days, rather than 14 days; 2) the reduction to the patent term adjustment of 17 days under 37 CFR 1.704(c)(8) should be removed because the Information Disclosure Statement filed October 4, 2007, contained a statement under 37 CFR 1.705(d), and 3) the reduction to the patent term adjustment of 51 days pursuant to 37 CFR 1.704(c)(8) for the filing of Information Disclosure Statement on July 16, 2008, should be removed.

As to applicants' argument that the adjustment to the patent term of 14 days pursuant to 37 CFR 1.703(a)(2) should be increased to 15 days, it is noted that the a response to a non-final Office action was received in the Office on October 10, 2008, but the response should have been properly accorded a filing date of October 9, 2008, pursuant to 37 CFR 1.10. Accordingly, the period of adjustment for the mailing of non-final office action on May 26, 2009, after the reply under 37 CFR 1.704(b) was filed on October 9, 2008, is 15 days with said period beginning on February 11, 2009, and ending on May 26, 2009. **Accordingly, the period of adjustment of 14 days will be removed and period of 15 days entered.**

As to applicants' argument that the reduction of 17 days entered pursuant to 37 CFR 1.704(c)(8) should be removed, a review of the application history reveals that an Information Disclosure Statement (IDS) was filed on October 4, 2007, 17 days after a response to a restriction/election requirement was filed on September 17, 2007. 37 CFR 1.704(c)(8) provides that:

> (c) Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:

> (8) Submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the initial reply was filed and ending on the date the supplemental reply or other such paper was filed.

37 CFR 1.704(d) provides that:

> (d) A paper containing only an information disclosure statement in compliance with §§ 1.97 and 1.98 will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under paragraphs (c)(6), (c)(8), (c)(9), or (c)(10) of this section if it is accompanied by a statement that each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in § 1.56(c) more than thirty days prior to the filing of the information disclosure statement. This thirty-day period is not extendable.

It is undisputed that the Information Disclosure Statement filed October 4 2007, was filed 17 days after the response to the restriction/election requirement was filed on September 17, 2007. The record does not support a conclusion that the Examiner expressly requested the filing of the IDS. Further review of the Information Disclosure Statement filed October 4, 2007, reveals that the statement included the proper statement under § 1.704(d). **Accordingly, the period of reduction of 17 days will be removed as the IDS filed October 4, 2007, contained a proper statement under 37 CFR 1.705(d).**

As to applicants' argument that the reduction to the patent term adjustment of 51 days pursuant to 37 CFR 1.704(c)(8) for the filing of Information Disclosure Statement on July 16, 2008, should be removed, it is noted that a similar analysis as applied to the IDS filed October 4, 2007, is appropriate. In view thereof, it is concluded that the reduction to the patent term adjustment of 51 days for the filing of IDS on July 16, 2009, is warranted as the IDS was filed 51 days after the reply

under 37 CFR 1.704(b) was filed on May 26, 2009; there is no indication that the examiner expressly requested the IDS be filed, and the IDS did not contain a proper statement under 37 CFR 1.705(d). **The reduction of 51 days will not be removed, accordingly.**

In view thereof, the determination of the patent term adjustment at the time of the mailing of the notice of allowance is two hundred and thirty-one (231) days (394 days of Office delay - 163 days of applicant delay).

The petition fee $200.00 set forth in 37 CFR 1.18(e) is noted.

Applicants are reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicants will be notified in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries regarding this specific matter should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PALM screen

Patent Term Adjustments

PTA/PTE Information | Patent Term Adjustment | Patent Term Extension

Application Number*: 11144248 Search | Explanation of PTA Calculation | Explanation of PTE Calculation

PTA Calculations for Application: 11144248

Application Filing Date	06/02/2005	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	393
A Delays	393	PTO Manual Adjustment	18
B Delays	0	Applicant Delay (APPL)	180
C Delays	0	Total PTA (days)	231

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
97	09/07/2010		P028	Adjustment of PTA Calculation by PTO	18		0
88	12/30/2009		MN/=.	Mail Notice of Allowance			0
87	12/28/2009		IREV	Issue Revision Completed			0
86	12/28/2009		DVER	Document Verification			0
85	12/28/2009		N/=.	Notice of Allowance Data Verification Completed			0
84	12/28/2009		DOCK	Case Docketed to Examiner in GAU			0
83	12/15/2009		CNTA	Notice of Allowability			0
82	11/16/2009		FWDX	Date Forwarded to Examiner			0
81	11/11/2009		A.NE	Amendment after Final Rejection			0
79	08/12/2009		MCTFR	Mail Final Rejection (PTOL - 326)			0
78	08/12/2009		CTFR	Final Rejection			0
76	08/11/2009		PA..	Change in Power of Attorney (May Include Associate POA)			0
77	07/29/2009		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
80	07/16/2009	05/26/2009	M844	Information Disclosure Statement (IDS) Filed		51	70
75	07/16/2009		IDSC	Information Disclosure Statement considered			0
73	07/16/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
71	06/03/2009		FWDX	Date Forwarded to Examiner			0
74	05/26/2009		IDSC	Information Disclosure Statement considered			0
72	05/26/2009		M844	Information Disclosure Statement (IDS) Filed			0
70	05/26/2009	05/24/2009	A...	Response after Non-Final Action		2	65
69	05/26/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
65	02/24/2009	02/10/2009	MCTNF	Mail Non-Final Rejection	14		50
64	02/18/2009		CTNF	Non-Final Rejection			0
63	02/02/2009		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
61	02/02/2009		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
68	01/28/2009	10/10/2008	M844	Information Disclosure Statement (IDS) Filed		110	50
62	01/28/2009		IDSC	Information Disclosure Statement considered			0
60	01/28/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
67	01/20/2009		RCAP	Reference capture on IDS			0
66	01/20/2009		M844	Information Disclosure Statement (IDS) Filed			0
58	01/20/2009		IDSC	Information Disclosure Statement considered			0
57	01/20/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
51	11/19/2008		FWDX	Date Forwarded to Examiner			0
55	10/10/2008		IDSC	Information Disclosure Statement considered			0
53	10/10/2008		RCAP	Reference capture on IDS			0
52	10/10/2008		M844	Information Disclosure Statement (IDS) Filed			0
50	10/10/2008		A...	Response after Non-Final Action			0
49	10/10/2008		WIDS	Information Disclosure Statement (IDS) Filed			0
48	07/10/2008		MCTNF	Mail Non-Final Rejection			0
47	07/07/2008		CTNF	Non-Final Rejection			0
43	04/15/2008		DOCK	Case Docketed to Examiner in GAU			0
41	04/11/2008		FWDX	Date Forwarded to Examiner			0
42	03/10/2008		LET.	Miscellaneous Incoming Letter			0
40	03/10/2008		A...	Response after Non-Final Action			0
39	12/10/2007		MCTNF	Mail Non-Final Rejection			0
38	12/07/2007		CTNF	Non-Final Rejection			0
33	10/04/2007		IDSC	Information Disclosure Statement considered			0
28	10/04/2007	09/17/2007	M844	Information Disclosure Statement (IDS) Filed		17	24
27	10/04/2007		WIDS	Information Disclosure Statement (IDS) Filed			0
25	10/01/2007		FWDX	Date Forwarded to Examiner			0
34	09/19/2007		IDSC	Information Disclosure Statement considered			0
26	09/19/2007		M844	Information Disclosure Statement (IDS) Filed			0
23	09/19/2007		WIDS	Information Disclosure Statement (IDS) Filed			0
24	09/17/2007		ELC.	Response to Election / Restriction Filed			0
22	08/16/2007	08/02/2006	MCTRS	Mail Restriction Requirement	379		-1
21	08/15/2007		CTRS	Requirement for Restriction / Election			0

35	05/30/2007	IDSC	Information Disclosure Statement considered	0
20	05/30/2007	M844	Information Disclosure Statement (IDS) Filed	0
19	05/30/2007	WIDS	Information Disclosure Statement (IDS) Filed	0
32	05/04/2007	IDSC	Information Disclosure Statement considered	0
17	05/04/2007	M844	Information Disclosure Statement (IDS) Filed	0
16	05/04/2007	WIDS	Information Disclosure Statement (IDS) Filed	0
36	09/19/2005	IDSC	Information Disclosure Statement considered	0
15	09/19/2005	RCAP	Reference capture on IDS	0
14.7	09/19/2005	M844	Information Disclosure Statement (IDS) Filed	0
14	09/19/2005	WIDS	Information Disclosure Statement (IDS) Filed	0
13	09/06/2005	TSSCOMP	IFW TSS Processing by Tech Center Complete	0
9	09/06/2005	DOCK	Case Docketed to Examiner in GAU	0
37	08/29/2005	IDSC	Information Disclosure Statement considered	0
11.7	08/29/2005	M844	Information Disclosure Statement (IDS) Filed	0
11	08/29/2005	WIDS	Information Disclosure Statement (IDS) Filed	0
8	07/26/2005	OIPE	Application Dispatched from OIPE	0
7	07/26/2005	COMP	Application Is Now Complete	0
6	06/30/2005	L128	Cleared by L&R (LARS)	0
5	06/15/2005	L198	Referred to Level 2 (LARS) by OIPE CSR	0
4	06/13/2005	CRFE	CRF Is Good Technically / Entered into Database	0
3	06/10/2005	SCAN	IFW Scan & PACR Auto Security Review	0
12	06/02/2005	RCAP	Reference capture on IDS	0
10	06/02/2005	A.PE	Preliminary Amendment	0
2	06/02/2005	CRFL	CRF Disk Has Been Received by Preexam / Group / PCT	0
1	06/02/2005	IEXX	Initial Exam Team nn	0

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OFFICE OF PETITIONS

ROPES & GRAY LLP
PATENT DOCKETING 39/361
1211 AVENUE OF THE AMERICAS
NEW YORK NY 10036-8704

In re Patent No. 7,815,907	:	DECISION ON REQUEST
Cohen, et al.	:	FOR
Issue Date: October 19, 2010	:	RECONSIDERATION OF
Application No. 11/144,248	:	PATENT TERM ADJUSTMENT
Filed: June 2, 2005	:	NOTICE OF INTENT TO ISSUE
Atty. Docket No. 000659-0032-102	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on November 10, 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, one hundred and thirty-five (1,135) days. Further, at patentee's request, the petition will also be treated as a petition under 37 CFR 1.183 to waive 37 CFR 1.704(c)(8).

The petition under 37 CFR 1.83 is **DISMISSED**[1].

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by **one thousand, one hundred and ten (1,110)** days is **GRANTED to the extent indicated herein.**

Patentees maintain that the period of reduction under 37 CFR 1.704(c)(8) to the patent term adjustment for the filing of an Information Disclosure Statement on January 28, 2009, 110 days after a reply was filed on October 10, 2008, should actually be 111 days. In summary, patentees maintain that the reply was deposited with the United States Postal Service, Express Mail Service on October 9, 2008, and, as such, the reply should be noted by the USPTO as having been filed October 9, 2008.

[1] This decision was reached in consultation with the supervisory staff of the Office of Petitions.

It is noted that 37 CFR 1.10 allows a filing to be noted as having been filed on the date the filing is deposited with United States Postal Service (USPS), Express Mail Service. However, the record does not reflect that a petition under 37 CFR 1.10 was ever filed to have a filing date of October 9, 2009, accorded the reply filed October 10, 2008. Further, the copy of the Express Mail Service receipt filed with the "Application for Patent Term Adjustment" on March 30, 2010, is illegible insofar as the "date-in" cannot be seen and no USPS postmark denoting the "date-in" is readily apparent. Petitioner has not established, and the record does not demonstrate, that the reply filed October 10, 2008, should be accorded a filing date of October 9, 2008. As there is not a change to the filing date of the reply, the reduction to the patent term adjustment under 37 CFR 1.704(c)(8)of 110 days for the filing of the Information Disclosure Statement on January 28, 2009, remains.

Patentees' argue further that the reduction to the patent term adjustment of 51 days for the filing of an Information Disclosure Statement on July 16, 2009, is unwarranted. In summary, patentees argue that the filing of the IDS on July 16, 2009, was not a "failure to engage in reasonable efforts to conclude prosecution of the application" because: 1) the IDS was filed to ensure compliance with 37 CFR 1.56; 2) the IDS was filed promptly after the mailing of a Notice of Allowance was issued in a related application, and 3) the reduction of patent term adjustment for prompt submission of information cited in a co-pending application is contrary to law and equity.

Patentees' arguments have been considered, but are not persuasive. It is noted that 37 CFR 1.704(c)(8) provides:

> (c) Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:
>
> (8) Submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed, in which case the period of adjustment set forth in § 1.703 shall be

reduced by the number of days, if any, beginning on the day after the date the initial reply was filed and ending on the date the supplemental reply or other such paper was filed.

A review of the application history reveals that on July 16 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 May 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 16, 2009, reveals that patentees did not include a statement under 37 CFR 1.704(d).[2] Thus, for the purposes of calculation of the patent term adjustment, patentees failed to engage in reasonable efforts to conclude prosecution of the application and 37 CFR 1.704(c)(8) is applicable. Accordingly, the period of adjustment was properly reduced by 51 days pursuant to 37 CFR 1.704(c)(8), counting the number of days beginning on the day after the date the initial reply was filed, May 27,2009, and ending on the date that the IDS was filed, July 16, 2009.

The petition under 37 CFR 1.183 to waive 37 CFR 1.704(c)(8) is dismissed as patentees have not established that an extraordinary situation existed—without any other reasonable remedy under the governing rules and statutes--such that the filing of IDS on July 16, 2009, should be exempt from 37 CFR 1.704(c)(8). The petition is dismissed, accordingly.

In view thereof, the patent term adjustment is **1,110 days** (475 days (A) delay + 869 days (B) delay - 81 days of overlap - 163(110 + 2 + 51) days of Applicant delay).

---

[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.

Deposit account 06-1075 will be charged $200.00 for the fee required by 37 CFR 1.118(e).

Deposit account 06-1075 will be charged $400.00 for the fee for the petition under 37 CFR 1.183.

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, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand, one hundred and ten (1,110)** days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,815,907 B2

DATED : Oct. 19. 2010

INVENTOR(S) : Cohen 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 (1086) days

Delete the phrase "by 1086 days" and insert – by 1110 days--

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299 EAST SIXTH STREET
CINCINNATI OH 45202

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OCT 29 2010

OFFICE OF PETITIONS

In re Application of	:	
Christine Marie Cahen	:	
Application No. 11/144,313	:	DECISION ON PETITION
Filed: June 3, 2005	:	
Attorney Docket No. CM2874	:	

This is a decision on the 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 as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2))within the time period provided in 37 CFR 41.37(a)(1). No extensions of time were obtained. As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed January 6, 2010, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on March 7, 2010. See MPEP 1215.04. A Notice of Abandonment was mailed September 2, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a 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 1796 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

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OFFICE OF PETITIONS

MERCK
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RAHWAY NJ 07065-0907

In re Patent No. 7,598,285	:	DECISION ON REQUEST
Parmee et al.	:	FOR
Issue Date: October 6, 2009	:	RECONSIDERATION OF
Application No. 11/144,332	:	PATENT TERM ADJUSTMENT
Filed: June 3, 2005	:	and
Atty Docket No. 21679Y	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on December 3, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand and twenty-four (1024) days.

Patentee disagrees that they were non-diligent for a period of 24 days, in submitting an amendment after allowance and request that this determination be reversed. It is noted, however, that only a period of reduction of 23 days pursuant to 37 CFR 1.704(c)(10) was entered for the filing of the amendment after the mailing of the notice of allowance. The other 1 day of reduction is pursuant to 37 CFR 1.704(b) for the delay in paying the issue fee.

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 **one thousand and three (1003)** days.

Patentee has miscalculated the over 3 year period. The period is 490 days, not 480 days, counting the number of days beginning on June 4, 2008, the date the day after the three year anniversary of the filing date of the application, and ending on

October 6, 2009, the date of issuance of the patent. Accordingly, considering the overlap of 89 days, the patent term adjustment is increased by 401 days for "B" delay.

Further, patentee's arguments have been considered, but not found persuasive that i) the filing of the amendment after allowance and ii) the payment of the issue fee three months and 1 day after the mailing of the notice of allowance do not constitute a failure to engage within the meaning of 37 CFR 1.704(c)(10) and 1.704(b) respectively. By definition, the filing of an amendment after the mailing of the notice of allowance is a failure to engage in reasonable efforts to conclude processing or examination, which warrants entry of a period of reduction for applicant delay. See 37 CFR 1.704(c)(10). Filing of a paper after the mailing of the notice of allowance is not, as in the instance of filing of a supplemental paper pursuant to 37 CFR 1.704(c)(8), excused on the basis that its filing was expressly requested by the Examiner. Papers filed after the mailing of the notice of allowance, unless deemed otherwise by the Director, are considered to substantially interfere with the patent issuance process and thus, constitute failures to engage in reasonable efforts to conclude examination. It is well-established that the filing of an amendment under 1.312 is a failure to engage under 37 CFR 1.704(c)(10).

It is not determinative as argued by patentee whether the filing of this amendment was necessitated by the Examiner's statement of reasons for allowance, wherein it was noted that structure 19(A) was drawn incorrectly. It is controlling that the amendment filed by patentee after the mailing of the notice of allowance is not a paper which the Director has deemed to not constitute a "failure to engage," such as a request to correct an error or omission in the "Notice of Allowance" or "Notice of Allowability." See MPEP 2731. Here, patentee acknowledges that correction was appropriate. Hence, there was no error or omission in the Notice of Allowance. Rather, patentee had to file an amendment after the mailing of the notice of allowance to comply with the appropriate correction. There is no dispute that an amendment was filed in this application on March 9, 2009, after the mailing of the notice of allowance on December 8, 2008. Accordingly, the patent term adjustment was properly reduced by 23 days, counting the number of days beginning on March 9, 2009, the date applicant filed the 312 amendment, and ending on March 31, 2009, the date the Office mailed a response.

This is properly considered applicant delay pursuant to 37 CFR 1.704(c)(10).

Patentee disputes 24 days of applicant delay, but only submits arguments with respect to the 23 days of reduction associated with the filing of the amendment under 1.312. The other 1 day is attributed to a failure to engage pursuant to 37 CFR 1.704(b). Specifically, the patent term adjustment was properly reduced by one day for the payment of the issue fee on March 9, 2009, which was in excess of three months after the mailing of the notice of allowance on December 8, 2008. This reduction is correct and will stand.

In view thereof, the correct revised patent term adjustment is 1003 days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by one thousand and three **(1003)** days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,598,285 B2

DATED : October 6, 2009 **DRAFT**

INVENTOR(S) : Parmee 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 602 days

Delete the phrase "by 602 days" and insert – by 1003 days--

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Zackson Law LLC
1015 Locust Street Suite 750
St. Louis MO 63101-1324

In re Patent No. 7,776,326	:	DECISION ON REQUEST
Milbrandt et al.	:	FOR
Issue Date: August 17, 2010	:	RECONSIDERATION OF
Application No. 11/144,358	:	PATENT TERM ADJUSTMENT
Filed: June 3, 2005	:	
Atty Docket No. 1001-0172	:	

This is a decision on the petition pursuant to 37 C.F.R. 1.705(d), filed on October 15, 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 four hundred and four (404) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **DISMISSED**.

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.

Application No. 11/144,358 matured into U.S. patent No. 7,776,326 on August 17, 2010, with a patent term adjustment of 386 days.

Patentee has indicated that this patent is not subject to a terminal disclaimer.[1]

The Office agrees that the period of examination delay totals 376 days[2] and the over-three-year period totals 134 days.[3]

---

[1] Petition dated June 2, 2010, page 4.
[2] Petition, pages 2-3.
[3] Id. at 3.

The sole item in dispute is the correct period of applicant delay. The Office has determined that Patentee has omitted one period of applicant delay.

37 CFR 1.704(c)(10) states that circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:

> "Submission of 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 March 5, 2010. An Information Disclosure Sheet (IDS) was filed on March 19, 2010, and a response was mailed 17 days later on April 5, 2010. This warrants a reduction of 18 days pursuant to 37 C.F.R. § 1.704(c)(10), as the date on which the supplemental response was filed is included in the period of delay.

As such, the period of applicant delay is 124, not 106[4] days.

It follows that the patent term adjustment is 386 (376 examination delay plus 134 B-delay minus 124 applicant delay) days, not 404 days.

The $200.00 fee set forth in 37 C.F.R. § 1.18(e) will be charged to Deposit Account No. 50-5219 in due course, as authorized on the fourth page of this petition. No additional fees are required.

As the patent issued with the correct patent term adjustment, a certificate of correction is not required.

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[4] Id. at 3-4.

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,[5] hand-delivery,[6] or facsimile.[7] Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web.[8]

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3225.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

[5] Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
[6] Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
[7] (571) 273-8300 - please note this is a central facsimile number.
[8] https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html

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In re Patent No. 7,756,475	:	DECISION ON REQUEST
Rambo	:	FOR
Issue Date: July 13, 2010	:	RECONSIDERATION OF
Application No. 11/144,536	:	PATENT TERM ADJUSTMENT
Filed: June 3, 2005	:	and
Atty Docket No. **16076US01**	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on September 13, 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 twenty-four (324) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by three hundred and twenty-three (323) days is **GRANTED to the extent indicated herein.**

Patentee asserts that the adjustment under 37 CFR 1.702(b) and 37 CFR 1.703(b), is 113 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 June 4, 2008, and ends on September 23, 2008, the day before the RCE was filed, and is 112 (not 113) days.

It is further noted that patentees dispute the reduction to the patent term adjustment under 37 CFR 1.704(c)(10) for the filing of the "Response to Notice of Allowance" on June 4, 2010.

Patentees' argument has been considered, and is persuasive. A review of the application reveals that a reduction of the patent term adjustment of 1 day was entered for the filing of the "Response to Notice of Allowance", on June 4, 2010, after the Notice of Allowance and Issue Fee Due was mailed on June 4, 2010. Such a paper is 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]. Thus, the reduction to patent term

---

[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

adjustment of 1 day pursuant to 37 CFR 1.704(c)(10) will be removed.

In view thereof, the patent term adjustment is 323 days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Corrections Branch for issuance of a certificate of correction.

The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by three hundred and twenty-three **(323)** days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

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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…

DRAFT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,756,475 B2

DATED : Jul. 13, 2010

INVENTOR(S) : Rambo

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 (322) days

Delete the phrase "by 322 days" and insert – by 323 days--

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/144,554	06/03/2005	Paulo Jesus Pereira	63,523A	6202

25212 7590 08/04/2010
DOW AGROSCIENCES LLC
9330 ZIONSVILLE RD
INDIANAPOLIS, IN 46268

EXAMINER
KUBELIK, ANNE R

ART UNIT	PAPER NUMBER
1638	

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.

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DOW AGROSCIENCES LLC
9330 ZIONSVILLE RD
INDIANAPOLIS IN 46268

In re Application of:	:
Paulo Jesus Pereira	: PETITION DECISION
Serial No.: 11/144,554	:
Filed: June 3, 2005	:
Attorney Docket No.: **63,523A**	

This is in response to the petition under 37 CFR § 1.59(b), filed June 17, 2010, to expunge information from the above identified application. This application has been allowed.

Petitioner requests that the Declaration filed under 37 CFR 1.132 submitted to the Patent Office on July 5, 2007 be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

The reasons set forth in this petition establishes to the satisfaction of the Director that expungement of the information is appropriate. The file 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.

Should there be any questions about this decision please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 571-273-8300.

Marianne C. Seidel
Quality Assurance Specialist
Technology Center 1600

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United States Patent and Trademark Office
P.O. Box 1450
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DICKINSON WRIGHT PLLC
38525 WOODWARD AVENUE
SUITE 2000
BLOOMFIELD HILLS MI 48304-2970

MAILED
JUL 05 2011
OFFICE OF PETITIONS

In re Application of	:	
COOK	:	
Application No. 11/144,587	:	DECISION ON PETITION
Filed: June 3, 2005	:	
Attorney Docket No. GSTS 0107 PA	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 27, 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 (Notice) mailed, July 13, 2010. Since the non-compliant amendment was an after-final amendment, no new time period was given (See the Notice dated July 13, 2010 and the Office action dated August 25, 2009). Accordingly, the application became abandoned on November 26, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) a reply in the form of an Amendment, (2) the petition fee of $1620; and (3) a proper statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

This application is being referred to Technology Center AU 1798 for appropriate action by the Examiner in the normal course of business on the reply received May 27, 2011.

/Diane C. Goodwyn/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

cc: RENAE A. BAILEY
C/O KILPATRICK TOWNNSEND LLP,
1100 PEACHTREET ST, SUITE 2800
ATLANTA, GA 30309

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In re Patent No. 7222788
Issue Date: May 29,2007
Application No. 11144761
Filed: June 6,2005
Attorney Docket No. 2004P11467US

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed November 10,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of November 10,2011 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7,222,788	2007-05-29	11/144,761	2005-06-06	PWNOP0119US

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
◉	3 ½ year	(1551)	○	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Mark D. Saralino/	Date (YYYY-MM-DD)	2011-11-10
Name	Mark D. Saralino	Registration Number	34243

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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APR 28 2011
OFFICE OF PETITIONS

LEE GROSSKREUZ HECHTEL, ESQ.
2 MEROKE TRAIL
PORT JEFFERSON, NY 11777

In re Application of	:	
Gregory Konesky	:	
Application No. 11/144,954	:	ON PETITION
Filed: June 4, 2005	:	
Attorney Docket No.: 500-1	:	

This is a decision on the petition under 37 CFR 1.137(b), filed March 10, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for a failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of April 4, 2009. A Notice of Abandonment was mailed on January 29, 2010. On March 10, 2011, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) under 37 CFR 1.114 and fee of $405; (2) the petition fee of $810; and (3) an adequate statement of unintentional delay.

This application is being referred to Technology Center AU 1793 for further processing in the normal course of business of the RCE 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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MEDTRONIC VASCULAR, INC.
IP LEGAL DEPARTMENT
3576 UNOCAL PLACE
SANTA ROSA, CA 95403

MAILED

NOV 02 2011

OFFICE OF PETITIONS

In re Application of	:	
Howard R. Levin et al	:	
Application No. 11/145,122	:	DECISION GRANTING PETITION
Filed: June 3, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. P40953.03	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, November 1, 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 October 14, 2011 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

This matter is being referred to Technology Center AU 3766 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Aaron J. Poledna
Perkins Coie LLP
P.O. Box 1247
Seattle, WA 98111-1247