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KING & PARTNERS, PLC
170 COLLEGE AVENUE
SUITE 230
HOLLAND, MI 49423

MAILED
SEP 29 2011
OFFICE OF PETITIONS

In re Application of :
William M. Yarbrough :
Application No. 11/175,917 : ON PETITION
Filed: July 6, 2005 :
Attorney Docket No.: ZAN-031127 P1C1 :

This is a decision in response to the petition, filed September 6, 2011, under the provisions of 37 CFR 1.181 (no fee) to withdraw the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

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

The application became abandoned for a failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed January 22, 2010, which set a shortened statutory period for reply of three (3) months. On July 26, 2010, using a Certificate of Mailing dated July 22, 2010, applicant submitted a response, including, *inter alia*, a Request for Continued Examination, the requisite filing fee and an appropriate petition for extension of time. On August 16, 2010, a Notice of Improper Request for Continued Examination was mailed. Thereafter, on January 19, 2011, a Notice of Abandonment was mailed.

On September 6, 2011, the present petition was filed, wherein petitioner states that the abandonment should be withdrawn. Petitioner explains that "a status inquiry conducted via PAIR 12 months after submission of the RCE uncovered that a Notice of Abandonment was mailed...However, this Notice of Abandonment was never received by Applicant." In support petitioner submits a copy of this docket records evidencing non-receipt of the Notice of Abandonment. Nonetheless, petitioner argues that a proper response was filed on July 22,2010 in response to the Office Action mailed January 22, 2010.

A review of the record does not dispute that a response was timely filed on July 26, 2010; however, the response was not complete. In this regard, the RCE of July26, 2010 did not include the submission required under 37 CFR 1.114. It is noted that petitioner indicates that Section

(1)(a)(i) of the RCE "includes a box with a check mark which requests that the Examiner consider the arguments submitted in the amendment and communication dated October 5, 2009...in light of the Power of Attorney for Terminal Disclaimer submitted with the RCE on July 22, 2010, Identified in Section (1)(b)(iv)." However, Section (1)(a)(i) of the RCE relates to previously filed unentered amendments and amendments filed with the RCE. In this case, an amendment was not filed with the RCE and the amendment of October 5, 2009 was entered and already consider by the final Office action mailed January 22, 2010. Consequently there was no submission under 37 CFR 1.114 for the examiner to consider.

Pursuant to 35 U.S.C. 133, "[u]pon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the application, or within such shorter time, not less than thirty days, as fixed by the Director in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to satisfactory of the Director that such delay was unavoidable.

Petitioner is also reminded that evidence of nonreceipt of an Office communication or action (e.g., a Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See *Lorenz v. Finkl*, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); *Krahn v. Commissioner*, 15 USPQ2d 1823, 1824 (E.D. Va 1990); *In re Application of Fischer*, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988).

The evidence of record does not demonstrate that such delay in filing a complete response was unavoidable within the meaning of the rule. Without an acceptable reply, the application became abandoned by operation of law on July 23, 2010. Accordingly, the abandonment will not be withdrawn.

Petitioner is 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).

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).

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

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 delivered through one of the following mediums:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions
By Internet:	EFS-Web[1]

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

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

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SUITE 230
HOLLAND, MI 49423

MAILED

JAN 26 2012

OFFICE OF PETITIONS

In re Application of
William M. Yarbrough
Application No. 11/175,917
Filed: July 6, 2005
Attorney Docket No.: ZAN-031127 P1C1

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed December 5, 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 mailed January 22, 2010. It is noted that a timely Request for Continued Examination (RCE) was filed on July 26, 2010; however, the RCE was held improper by a Notice mailed August 16, 2010. A Notice of Abandonment was subsequently mailed on January 19, 2011. On December 5, 2011, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the submission required by 37 CFR 1.114 in the form of an amendment; (2) the petition fee of $930; and (3) an adequate statement of unintentional delay.

This application is being referred to Technology Center AU 1628 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

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

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
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SEED INTELLECTUAL PROPERTY
LAW GROUP PLLC
701 FIFTH AVENUE, SUITE 5400
SEATTLE WA 98104-7092

MAILED

SEP 2 0 2010

OFFICE OF PETITIONS

In re Application of :
Robert M. DAVIS :
Application No. 11/175,960 : DECISION ON PETITION
Filed: July 5, 2005 :
Docket No. 851763.462 :

This is a decision on the petition under the unintentional provisions of 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 reply in a timely manner to the non-final Office action mailed, January 12, 2010, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on April 12, 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 2621 for appropriate action by the Examiner in the normal course of business.

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

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270 MADISON AVENUE
8TH FLOOR
NEW YORK NY 10016-0601

MAILED
JUL 05 2011
OFFICE OF PETITIONS

In re Application of	:	
Yoram HOFMAN et al.	:	
Application No. 11/175,982	:	DECISION ON PETITION
Filed: July 06, 2005	:	
Attorney Docket No. 6648/005	:	

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 timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed August 10, 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 November 11, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuing application under 37 CFR 1.53(b); (2) the petition fee of $810.00; 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.12/028,885, filed February 11, 2008.

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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CANTOR COLBURN LLP
20 CHURCH STREET, 22ND FLOOR
HARTFORD CT 06103

MAILED
SEP 2 1 2010
OFFICE OF PETITIONS

In re Application of :
Joshua NAPOLI, et al :
Application No. 11/176,057 : ON PETITION
Filed: July 7, 2005 :
Attorney Docket No. ACS-0006 / ASI0124 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 14, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of October 30, 2009. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is January 31, 2010.

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

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 $490 extension of time fee submitted with the petition on July 14, 2010, was subsequent to the maximum extendable period for reply, petitioner may request a refund of this fee by writing to the following address: Mail Stop 16, Commissioner for Patents, P. O. Box

1450, Alexandria, VA 22313-1450. A copy of this decision should accompany petitioner's request.

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

This application is being referred to Technology Center 2192 for further processing in the normal course of business.

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

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Maxwell Technologies, Inc. (OPLF)
9244 Balboa Avenue
San Diego CA 92123

MAILED

MAR 28 2011

PCT LEGAL ADMINISTRATION

In re Application of
Linda Zhong, et al.
Application No. 11/176,137
Filed: July 06, 2005
Attorney Docket No. M088.P-010-CIP3

: 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 10 January 2010, to accept an unintentionally delayed claim under 35 U.S.C. § 120 and 365(c) for the benefit of priority to the prior-filed international application set forth in the amendment filed concurrently with the instant petition.

The petition is **GRANTED**.

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

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

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

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the prior-filed international application has been included in an amendment

to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay.

Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 and 365 (c) to the prior-filed international application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

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

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

Any inquiries concerning this decision may be directed to Derek Putonen at (571) 272-3294. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center Art Unit 1729 for appropriate action on the amendment filed 10 January 2010, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 and 365 (c) to the prior-filed international application.

Boris Milef
Legal Examiner
Office of PCT Legal Administration

ATTACHMENT: Corrected Filing Receipt

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)
7116798	2006-10-03	11176346	2005-07-08	SPC - Fare Card

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

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

SURCHARGE

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

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

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

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	/Herbert V. Kerner, Esq./	Date (YYYY-MM-DD)	2010-11-24
Name	Herbert V. Kerner	Registration Number	42721

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. 7116798
Issue Date: October 3,2006
Application No. 11176346
Filed: July 8,2005
Attorney Docket No. SPC- Fare Card

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

This is a decision on the electronic petition, filed November 24,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of November 24,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

Mail Date: 08/04/2010

Applicant	: Tadafumi Ozaki	: DECISION ON REQUEST FOR
Patent Number	: 7663576	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/176,475	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/08/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1257** 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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MAR 26 2012

OFFICE OF PETITIONS

ECOLAB USA INC.
MAIL STOP ESC-F7, 655 LONE OAK DRIVE
EAGAN MN 55121

In re Application of :
Matts et al. :
Application No. 11/176,484 : ON PETITION
Filed: 07/06/2005 :
Attorney Docket Number: :
1969US01 :

This is a decision in response to the petition under 37 CFR 1.137(b) filed on March 9, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on November 5, 2009, for failure to timely file a reply to the final Office action mailed on August 4, 2009, which set a three (3) month shortened statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on February 17, 2010.

Receipt of the Request for Continued Examination (RCE) and submission under 37 CFR 1.114 filed on March 9, 2010 are acknowledged.

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 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.

Receipt of the revocation and new power of attorney filed on March 9, 2010 is acknowledged. All correspondence will be mailed to the new address of record. A Notice Regarding Change of Power of Attorney and Notice of Acceptance of Power of Attorney will be mailed under separate cover.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply.[1] The three (3)-month extension request filed on March 9, 2010, was submitted more than three (3) months after the end of the period for reply to the final Office action mailed on August 4, 2009, and therefore is unnecessary. The extension of time fee paid on March 9, 2010, will be refunded to counsel's credit card.

The application is referred to Technology Center Art Unit 1613 for further processing.

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

[1] See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988).

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THE ECLIPSE GROUP LLP
6345 BALBOA BLVD SUITE 325
ENCINO CA 91316

MAILED
DEC 12 2011
OFFICE OF PETITIONS

In re Application of :
Hellmich, et al. :
Application No. 11/176,573 : ON PETITION
Filed: July 6, 2005 :
Attorney Docket No. HI05009USU :

This is in response to petition to revive an unintentionally abandoned application under 37 CFR 1.137(b), filed November 15, 2011.

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

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

The above-identified application became abandoned for failure to timely file a proper response to the final Office action mailed February 17, 2011, which set a shortened statutory period for reply of three months. No reply having been received, the application became abandoned on May 18, 2011. The Office mailed a Notice of Abandonment on October 27, 2011.

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 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 CFR 1.20(d)) required pursuant to paragraph (d) of this section.

The instant petition has not satisfied requirement (1).

Applicants have not submitted a proper reply to the February 17, 2011 final Office action. A proper response to a final office action consists of either: (1) an amendment that *prima facie* (i.e. on its face) places the application in condition for allowance; (2) a Notice of Appeal (and the required fee); (3) a Request for Continued Examination (and the required fee), or (4) a continuing application. Here, the Examiner has determined that the Amendment submitted with the instant petition does not place the application in condition for allowance.

Accordingly, on renewed petition, applicant must submit either a Notice of Appeal, an RCE, or a continuing application.

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

By mail: Mail Stop Petitions
Commissioner for Patents
PO Box 1450
Alexandria VA 22313-1450

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

Telephone inquiries concerning this decision may be directed to the undersigned at 571-272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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FEB 28 2012
OFFICE OF PETITIONS

THE ECLIPSE GROUP LLP
6345 BALBOA BLVD SUITE 325
ENCINO CA 91316

In re Application of :
Hellmich, et al. :
Application No. 11/176,573 : ON PETITION
Filed: July 6, 2005 :
Attorney Docket No. HI05009USU :

This is in response to the renewed petition to revive an unintentionally abandoned application under 37 CFR 1.137(b), filed February 13, 2012.

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

The above-identified application became abandoned for failure to timely file a proper response to the final Office action mailed February 17, 2011, which set a shortened statutory period for reply of three months. No reply having been received, the application became abandoned on May 18, 2011. The Office mailed a Notice of Abandonment on October 27, 2011. Applicants filed a petition to revive under 37 CFR 1.137(b) on November 15, 2011. However, the petition was dismissed in a decision mailed on December 12, 2012.

With the instant petition, petitioner has submitted the required reply in the form of an RCE. The other requirements for a grantable petition were previously met on November 15, 2011.

The application is being forwarded to Group Art Unit 2433 for consideration of the RCE, filed February 13, 2012.

Telephone inquiries concerning this decision may 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 : 08/31/10

TO SPE OF : ART UNIT 2828

SUBJECT : Request for Certificate of Correction for Appl. No.: 11176615 Patent No.: 7391799

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

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

Lamonte Newsome

Certificates of Correction Branch

703-756-1574

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

_____

_____

_____

_____

MINSUN OH HARVEY
PRIMARY EXAMINER

2928
Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 08/31/10

TO SPE OF : ART UNIT 2828

SUBJECT : Request for Certificate of Correction for Appl. No.: 11176615 Patent No.: 7391799

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

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

Lamonte Newsome

Certificates of Correction Branch

703-756-1574

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

_____

_____

_____

_____

MINSUN OH HARVEY
PRIMARY EXAMINER

2828
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/176,742	07/07/2005	Wendell T. Blonigan	010229.02/SBG/SOLAR-TF/AG	7068

44257 7590 04/07/2011

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

EXAMINER	
RUDAWITZ, JOSHUA I	
ART UNIT	PAPER NUMBER
3652	
MAIL DATE	DELIVERY MODE
04/07/2011	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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APR - 7 2011

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

In re Application of	:	
Wendell T. Blonigan et al.	:	DECISION ON PETITION
Application No. 11/176,742	:	UNDER 37 CFR §1.181
Filed: July 7, 2005	:	
For: SUBSTRATE HANDLING SYSTEM	:	

This is a decision on applicant's petition under 37 CFR 1.181 filed June 17, 2009 requesting a refund of fee for extension of time.

The petition is **DENIED.**

The record reflects that on June 6, 2008 a final Office action was mailed rejecting claims 1-33 under 35 U.S.C. 102. On August 6, 2008 applicant filed an amendment under 37 CFR 1.116 cancelling claims 1, 3, and 9; and amending claims 2 and 10. On August 13, 2008 an advisory action was mailed denying entry of the amendment and indicating that the after-final amendment raised new issues that necessitated further consideration and/or search. On August 29, 2008 applicant filed another amendment under 37 CFR 1.116 requesting reconsideration of the previously filed after final amendment; cancelling claims 1, 3, and 9; and amending claims 2 and 10. On October 08, 2008 an advisory action was mailed denying entry of the amendment and indicating that the presented arguments and amendment fail to overcome the rejections set forth in the final rejection of June 6, 2008. Applicant filed a notice of appeal on November 4, 2008.

Subsequently, the first appeal brief was filed November 21, 2008. It was held non-compliant on the communication mailed March 5, 2009 as having, among others issues, deficiencies related to the status of the amendments. On March 17, 2009 a second substitute appeal brief was filed. The second brief was held defective because the status of the amendments recalled a nonexistent amendment from August 19, 2008. On June 16, 2009 applicant filed a third substitute appeal brief along with a petition under 37 CFR 1.136(a) for extension of time. In the petition filed June 17, 2009 requesting a refund of fee for extension of time file under 37 CFR 1.136(a) filed August 19, 2008, applicant argues that it is unjust to request an extension of time because: "Even though Applicant inadvertently made an error in the submission date of the entered amendment after final rejection, there is no doubt which amendment after final rejection was entered, as Applicant identified the entered amendment as the Second Response to Final Office

Action and the entered amendment is a public record. Furthermore, the typographical error is not material to the Appeal process itself because the date of submission of the Second Response to Final Office Action does not raise any issue on appeal of the pending claims."

37 CFR 41.37 states: The brief shall contain "*Status of amendments*. A statement of the status of any amendment filed subsequent to final rejection"; "If a brief is filed which does not comply with all the requirements of paragraph (c) of this section, appellant will be notified of the reasons for non-compliance and given a time period within which to file an amended brief. If appellant does not file an amended brief within the set time period, or files an amended brief which does not overcome all the reasons for non-compliance stated in the notification, the appeal will stand dismissed."

Furthermore, the communication mailed March 5, 2009 clearly stated: "To avoid dismissal of the appeal, applicant must file an amended brief or other appropriate correction (see MPEP 1205.03) within ONE MONTH or THIRTY DAYS from the mailing date of this Notification, whichever is longer. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136."

With regard to applicant's argument that the refusal to accept the substitute appeal brief is unjust because its bases on a non-material typographical error, it is noted that the examiner had given the applicant an opportunity to correct the status of the amendment of the original appeal brief filed November 21, 2008. Also, it is noted that the examiner accurately pointed out that the status of the amendments was still inaccurate in the substitute appeal brief filed March 17, 2009 responsive to the notification of non-compliant appeal brief. In the instant application, the record shows that there were at least five sets of claims submitted throughout prosecution, of which at least two were filed after final. Therefore, proper identification of the proper set of claims to be reviewed on Appeal is considered crucial to the consideration of applicant's arguments. Since it is applicant's responsibility to ensure the timely submission of compliant documents to the Office, the examiner's actions are deemed warranted. Accordingly, applicant's request for a refund of fee for extension of time is denied.

Any questions regarding this decision should be directed to Saul J. Rodriguez, Supervisory Patent Examiner, at (571) 272-7097.

David L. Talbott, Director
Patent Technology Center 3600
Telephone No.: (571) 272-1934

sjr: 03/31/11
LM

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United States Patent and Trademark Office
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MAILED
JAN 20 2012
OFFICE OF PETITIONS

Danny M. Hooge
Hooge Consulting Service, Inc.
8775 Cedar Pass Road
Eagle Mountain UT 84043

In re Application of :
Hooge et al. :
Application No. 11/176,771 : ON PETITION
Filed: July 7, 2005 :
Attorney Docket No. UARK-2005-01 :

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

The petition is **DISMISSED**.

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

The 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. This applies, for instance, where the

amendment (or other paper) is signed by only one of three 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 (Hooge) was ever given a power of attorney to act on behalf of inventors Wideman, Jr., and Kuenzel, or that he is an assignee of the entire interest and has complied with the provisions of 37 CFR 3.73(b), the petition is considered to not contain a proper statement of unintentional delay.

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

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

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

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

Correspondence may also be submitted via the electronic filing system (EFS).

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

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

Danny M. Hooge
Hooge Consulting Service, Inc.
8775 Cedar Pass Road
Eagle Mountain UT 84043

MAILED
MAR 21 2012
OFFICE OF PETITIONS

In re Application of :
Hooge et al. :
Application No. 11/176,771 : ON PETITION
Filed: July 7, 2005 :
Attorney Docket No. UARK 2005-01 :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed March 2, 2012, 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 July 8, 2010. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). *See* MPEP 711.03(c)(III)(A)(2).

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), the examiner has determined that the amendment after final does not place the application in condition for allowance. An advisory action accompanies this decision.

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) 272-3215.

Charlema Grant
Attorney Advisor
Office of Petitions

Enclosure: Advisory Action

Advisory Action Before the Filing of an Appeal Brief	**Application No.** 11/176,771	**Applicant(s)** HOOGE ET AL.
	Examiner KEVIN E. WEDDINGTON	**Art Unit** 1629

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

THE REPLY FILED 23 November 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: *7-13*.
   Claim(s) objected to: _____.
   Claim(s) rejected: _____.
   Claim(s) withdrawn from consideration: *1-6*.

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 attachment.

/KEVIN E WEDDINGTON/
Primary Examiner
Art Unit: 1629

Claims 1-13 are presented for examination.

Applicants' amendment and response filed November 23, 2011 have been received and entered.

Allowable Subject Matter

Claims 7-13 are allowable.

The remaining claims 1-6 (**Withdrawn**) are still active in the present application. The applicants are advised to cancel the withdrawn claims so that the Examiner can allow the application or place the application in a condition for allowance.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KEVIN E. WEDDINGTON whose telephone number is (571)272-0587. The examiner can normally be reached on 12:30 pm -9:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffery S. Lundgren can be reached on (571)272-5541. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

KEVIN E WEDDINGTON
Primary Examiner
Art Unit 1629

/KEVIN E WEDDINGTON/
Primary Examiner, Art Unit 1629

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Leason Ellis LLP
81 Main Street
Suite 503
White Plains NY 10601

MAILED
DEC 06 2010
OFFICE OF PETITIONS

In re Patent No. RE41203 :
Issue Date: April 6, 2010 :
Application No. 11/176,882 : ON PETITION
Filed: July 6, 2005 :
Attorney Docket No. 3725/2282-US1 :

This is a decision on the petition under 37 CFR 1.182, filed November 19, 2010, requesting issuance of a duplicate Letters Patent for the above-identified patent.

The petition is **GRANTED**.

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

Telephone inquiries concerning this decision may be directed to Kimberly Inabinet at (571) 272-4618. Inquiries regarding the issuance of a duplicate Letters Patent may be directed to the Office of Data Management at (703) 308-9250.

A copy of this decision is being forwarded to the Publishing Division for issuance of duplicate Letters Patent.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

cc: Ollie Person (Fax - 571-270-9764)
Kimberly Terrell (Fax - 571-270-9958)

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SEP 21 2010

OFFICE OF PETITIONS

WILMERHALE/BOSTON
60 STATE STREET
BOSTON MA 02109

In re Application of :
Mann et al. :
Application No. 11/176,962 :
Filed: July 7, 2005 : ON APPLICATION FOR
Attorney Docket No. 0109536-00223US1 : PATENT TERM ADJUSTMENT
Title: RECOVERY SYSTEM :

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT AND REQUEST FOR RECONSIDERATION OF THE PATENT TERM ADJUSTMENT UNDER 37 C.F.R §§ 1.702-1.705" filed July 30, 2010. This request is properly treated under 37 CFR 1.705(b). Applicants submit that the correct patent term adjustment to be indicated on the patent is one thousand one hundred ten (1,110) days, not five hundred four (504) 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].

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

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

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

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

Anthony Knight
Director
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MARK A> LITMAN AND ASSOCIATES, P.A.
YORK BUSINESS CENTER
3209 W. 76TH STREET
SUITE 205
EDINA MN 55435

MAILED

MAY 18 2011

OFFICE OF PETITIONS

In re Application of	:	
Lynn Hessing et al.	:	
Application No. 11/177,013	:	DECISION ON PETITION
Filed: July 07, 2005	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. **88168.000028**	:	

This is a decision on the petition, filed April 12, 2011, 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 **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on March 19, 2008. 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 August 18, 2011 accompanies this decision on petition.

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

This application is being forward to Technology Center Art Unit 3716.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

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
11/177,013	07/07/2005	Lynn Hessing	88168.000028

CONFIRMATION NO. 7429

75035
Mark A> Litman and Associates, P.A.
York Business Center
3209 w. 76th Street
Suite 205
Edina, MN 55435

NONPUBLICATION RESCISSION LETTER

Date Mailed: 05/10/2011

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 08/18/2011.

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".

/tdjackson/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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OSTROLENK FABER GERB & SOFFEN
1180 AVENUE OF THE AMERICAS
NEW YORK NY 10036-8403

MAILED

FEB 02 2011

OFFICE OF PETITIONS

In re Application of	:	
Leigh Lassiter	:	
Application No. 11/177,109	:	DECISION ON PETITION
Filed: July 8, 2005	:	
Attorney Docket No. P/4168-21	:	

This is a decision on the petition, filed December 9, 2008, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

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

This application was held abandoned for failure to reply to the Notice of Allowance and Issue Fees Due (Notice) mailed July 11, 2008, which set a three (3) month period for reply. A Notice of Abandonment was mailed on November 4, 2008.

Petitioner asserts that the Notice dated July 11, 2008 was not received.

A review of the written record indicates no irregularity in the mailing of the Notice, and, in the absence of any irregularity, there is a strong presumption that the Notice was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Notice was not in fact received.

The showing required to establish non-receipt of an Office communication must include:

(1) a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would

include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.

(2) Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received.

(3) A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required. A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question. See MPEP §711.03(c)(I)(A).

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

The petition fails to satisfy all of the above-stated requirements, specifically, item (3) has not been provided.

Accordingly, absent the required evidence to establish non-receipt of the Notice of July 11, 2008, the petition requesting withdrawal of the holding of abandonment cannot be granted at this time.

If petitioner cannot supply the evidence necessary to withdraw the holding of abandonment, or simply does not wish to, petitioner should consider filing a petition under 37 CFR 1.137(b) stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the $810 petition fee.

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

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) 272-6842.

Carl Friedman
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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NEW YORK NY 10036-8403

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APR 12 2011
OFFICE OF PETITIONS

In re Application of	:	
Leigh Lassiter	:	
Application No. 11/177,109	:	DECISION ON PETITION
Filed: July 8, 2005	:	
Attorney Docket No. P/4168-21	:	

This is a decision on the renewed petition, filed March 28,2011, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely pay the issue and publication fees on or before October 12, 2008, as required by the Notice of Allowance and Fee(s) Due (Notice), mailed July 11, 2008.

Petitioner asserts that the Notice dated July 11, 2008 was not received.

A review of the written record indicates no irregularity in the mailing of the Notice, and, in the absence of any irregularity, there is a strong presumption that the Notice was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Notice was not in fact received. In this regard, the showing required to establish the failure to receive the Notice must consist of the following:

1. a statement from practitioner stating that the Notice was not received by the practitioner;
2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Notice was not received; and
3. a copy of the docket record where the non-received Notice would have been entered and docketed had it been received must be attached to and referenced in the practitioner's statement.

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

The petition satisfies the above-stated requirements. Accordingly, the application was not abandoned in fact.

In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

Petitioner provided the required response to the Notice on December 9, 2009. Therefore, this application is being referred to the Office of Data Management for processing as an allowed application.

Carl Friedman
Petitions Examiner
Office of Petitions

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1900 E. LINDEN AVE
PO BOX 710
LINDEN, NJ 07036

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AUG 27 2010

OFFICE OF PETITIONS

In re Application of :
Dennis L. Malandro, et al. :
Application No. 11/177,268 : ON PETITION
Filed: July 8, 2005 :
Attorney Docket No. 2005L004 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 29, 2010, to revive the above-identified application.

The petition is **DISMISSED**.

This application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed October 22, 2009, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on December 23, 2009. See MPEP 1215.04.

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) (3).

The statement of delay is not acceptable. In this regard, petitioner's attention is directed to 37 CFR 1.33(b), which states.

> (b) Amendments and other papers. Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:
>
> (1) A registered patent attorney or patent agent of record appointed in compliance with § 1.32(b);
>
> (2) A registered patent attorney or patent agent not of record who acts in a representative capacity under the provisions of § 1.34;
>
> (3) An assignee as provided for under §3.71(b) of this chapter; or
>
> (4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

An unsigned amendment (or other paper) or one not properly signed by a person having authority to prosecute the application is not entered. This applies, for instance, where the amendment (or other paper) is signed by only one of two applicants and the one signing has not been given a power of attorney by the other applicant.

Therefore, as the petition is not signed by a practitioner of record, the inventor(s) or an assignee of the entire interest and complied with the provisions of 37 CFR 3.73(b), the petition is considered to not contain a proper statement of unintentional delay.

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) 272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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LINDEN, NJ 07036

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NOV 04 2010

OFFICE OF PETITIONS

In re Application of :
Dennis L. Malandro, et al. :
Application No. 11/177,268 : ON PETITION
Filed: July 8, 2005 :
Attorney Docket No. 2005L004 :

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

The petition is **GRANTED**.

The application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed October 22, 2009, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.17(b). As no claim was allowed, the application became abandoned on December 23, 2009. See MPEP 1215.04.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810 and the submission required by 37 CFR 1.114; (2) the petition fee of $1620; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-1642. 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 1797 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/177,490	07/11/2005	Theodore A. Paxton	081468-0316747	4765

909 7590 09/17/2010

PILLSBURY WINTHROP SHAW PITTMAN, LLP
P.O. BOX 10500
MCLEAN, VA 22102

EXAMINER	
RAYMOND, BRITTANY L	
ART UNIT	**PAPER NUMBER**
1795	
MAIL DATE	**DELIVERY MODE**
09/17/2010	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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wk

SEP 17 2010

Mailed :
In re Application of : DECISION ON
Paxton et al. : PETITION
Serial No. 11/177,490 :
Filed: July 11, 2005 :
For: Reduced Pitch Multiple Exposure Process

This is a decision on the PETITION FILED UNDER 37 CFR 1.144 filed on June 7, 2010.

Newly added claims 71-83, drawn to a computer readable medium, were withdrawn by the Examiner's Office Action of June 17, 2008 because the Applicant received an action on the merits for the originally presented invention and the invention was constructively elected by original presentation for prosecution on the merits. The Examiner set forth that the newly submitted claims were directed to an invention that was independent or distinct because the process as claimed can be practiced without the use of a program code to tell an apparatus to perform placement and removal of photoresist layers and to perform exposure processes. The apparatus can be manually told when to perform a task.

Under the statute, the claims of an application may properly be required to be restricted to one of two or more claimed inventions only if they are able to support separate patents and they are either independent (MPEP § 802.01, § 806.06, and § 808.01) or distinct (MPEP § 806.05 - § 806.05(j)).

If the search and examination of all the claims in an application can be made without serious burden, the examiner must examine them on the merits, even though they include claims to independent or distinct inventions.

There are two criteria for a proper requirement for restriction between patentably distinct inventions:

(A) The inventions must be independent (see MPEP § 802.01, § 806.06, § 808.01) or distinct as claimed (see MPEP § 806.05 - § 806.05(j)); and

(B) There would be a serious burden on the examiner if restriction is not required (see MPEP § 803.02, § 808, and § 808.02).

Examiners must provide reasons and/or examples to support conclusions, but need not cite documents to support the restriction requirement in most cases. Where plural inventions are capable of being viewed as related in two ways, both applicable criteria for distinctness must be demonstrated to support a restriction requirement.

For purposes of the initial requirement, a serious burden on the examiner may be *prima facie* shown by appropriate explanation of separate classification, or separate status in the art, or a different field of search as defined in MPEP § 808.02. That *prima facie* showing may be rebutted by appropriate showings or evidence by the applicant.

The Examiner did establish a prima facie showing that there would be a serious burden on the Examiner if restriction was not required. The Examiner stated that the field of search of the new claims is not co-extensive with the search for the previously elected claims and that; this would result in additional searching.

DECISION

The petition is **DENIED.**

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

Jean-Paul G. Hoffman
PILLSBURY WINTHROP SHAW PITTMAN, LLP
P.O. BOX 10500
MCLEAN VA 22102

Issue Classification	Application/Control No.	Applicant(s)/Patent under Reexamination	
	11/177,679	WANG, HUI	
	Examiner	Art Unit	
	FRANK LU	1634	

ISSUE CLASSIFICATION

ORIGINAL					CROSS REFERENCE(S)						
CLASS				SUBCLASS	CLASS	SUBCLASS (ONE SUBCLASS PER BLOCK)					
435				6	435	91.1					
INTERNATIONAL CLASSIFICATION					536	23.1	24.3				
C	1	2	Q	1/68							
C	1	2	P	19/34							
C	0	7	H	21/02							
C	0	7	H	21/04							
				/							

(Assistant Examiner) (Date)	/Frank W Lu/ 7/29/2011 (Primary Examiner) (Date)	Total Claims Allowed: 18	
(Legal Instruments Examiner) (Date)		O.G. Print Claim(s): 1	O.G. Print Fig.: 1

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

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

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Paper No.

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

MAILED

JAN 18 2011

OFFICE OF PETITIONS

In re Patent No. 7521769	: DECISION ON REQUEST
Brian T. Cunningham	: FOR
Issue Date: 04/21/2009	: RECONSIDERATION OF
Application No. 11/177707	: PATENT TERM ADJUSTMENT
Filing or 371(c) Date: 07/08/2005	: and
Atty Docket No.	: NOTICE OF INTENT TO ISSUE
05-246	: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on June 19, 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 six hundred sixty-one (661) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by six hundred sixty-one (661) days is **GRANTED**.

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

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **six hundred sixty-one (661)** days.

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

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,521,769 B2

DATED : **Apr. 21, 2009** **DRAFT**

INVENTOR(S) : Cunningham

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 433 days.

Delete the phrase "by 433 days" and insert – by 661 days--

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Raafat M. Shaltout
McDonnell Boehnen Hulbert & Berghoff LLP
31st Floor
300 S. Wacker Drive
Chicago IL 60606

MAILED

FEB 07 2011

OFFICE OF PETITIONS

In re Patent No. 7,794,700	:
Konradi et al.	: DECISION ON REQUEST FOR
Issue Date: September 14, 2010	: RECONSIDERATION OF
Application No. 11/177,748	: PATENT TERM ADJUSTMENT
Filed: July 8, 2005	: AND NOTICE OF INTENT
Attorney Docket No. 05-052 A	: TO ISSUE CERTIFICATE OF
Title: MULTIMERIC VLA-4	: CORRECTION
ANTAGONISTS COMPRISING POLYMER	:
MOIETIES	:

This is a decision on the petition filed on November 11, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by three hundred forty-five (345) days.

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

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 forty-four **(344)** days is **GRANTED.**

The period of adjustment to which the patent is entitled under 37 CFR 1.702(a) is 389 days.

The period of adjustment to which the patent is entitled under 37 CFR 1.702(b) is 167 days.

A review of the record shows that an additional reduction is required.

Patentees should have been assessed a delay of eleven (11), not 10 days for the submission of the Information Disclosure Statement (IDS) on August 2, 2010. 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:
>
> (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;

A review of the record confirms that the IDS did not contain a statement in accordance with 37 CFR 1.704(d). The submission of the IDS after the mailing of the Notice of Allowance warrants an additional reduction of eleven (11) days. The 11 day period is calculated beginning on August 2, 2010 and ending on August 12, 2010 the date a response to the IDS was mailed. As such the 11 day reduction is required.

Thus the total reduction for patentees' delay totals 212 (88 + 56 + 57 + 11) 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 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 **three hundred forty-four (344)** days.

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

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

Charlema Grant
Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,794,700 B2

DATED : September 14, 2010 **DRAFT**

INVENTOR(S) : Konradi et al.

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

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 355 days

Delete the phrase "by 355 days" and insert – by 344 days--

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	11178211
Filing Date	08-Jul-2005
First Named Inventor	Brian Gally
Art Unit	2629
Examiner Name	ABBAS ABDULSELAM
Attorney Docket Number	IRDM.166A
Title	METHOD AND DEVICE FOR MANIPULATING COLOR IN A DISPLAY

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	/Joan Y. Chan/
Name	Joan Y. Chan
Registration Number	66385

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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Decision Date : May 13,2011

In re Application of :

Brian Gally

DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 11178211

Filed : 08-Jul-2005

Attorney Docket No : IRDM.166A

This is an electronic decision on the petition under 37 CFR 1.313(c)(2), filed May 13,2011 , 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 2629 for processing of the request for continuing examination under 37 CFR 1.114 .

Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/178,234	07/08/2005	Michael J. Emoff	704	6126

26366 7590 11/17/2010

ROGER S. DYBVIG
22 GREEN STREET
DAYTON, OH 45402

EXAMINER	
KUMAR, RAKESH	

ART UNIT	PAPER NUMBER
3651	

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.

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NOV 17 2010

Roger S. Dybvig
22 Green Street
Dayton, OH 45402

In re application of	:	
Michael J Emoff et al.	:	
Application No. 11/178,234	:	DECISION ON PETITION
Filed: July 8, 2005	:	TO WITHDRAW THE
For: DISPOSABLE COUPON DISPENSERS SUITABLE FOR OUTDOOR USE	:	HOLDING OF ABANDONMENT

This is in reply to applicant's petition of June 22, 2010 which will be treated as a petition to accept the corrected filing of an Appeal Brief and withdraw the holding of abandonment under 37 CFR 1.181. There is no fee required for this petition.

The petition to accept the Appeal Brief is **DISMISSED as moot**.
The petition to withdraw the holding of abandonment is **DENIED**.

A review of the application file reveals that a Final rejection was mailed to the applicant on November 26, 2008. A Notice of Appeal was received on March 3, 2009 with a Certificate of Mailing dated February 26, 2009. A credit card authorization was included authorizing a charge of $250.00. Because the fee for a Notice of Appeal was $270.00 at the time of the filing of the Notice of Appeal, the submission was $20.00 short. All payments for this application being made by credit card, there was no authorization to charge a deposit account for additional fees. On May, 20, 2009 a credit card payment was made which made up the $20.00 shortfall.

On October 8, 2009, the applicant filed an Appeal Brief along with a five month extension of time and a Certificate of Mailing dated October 5, 2009. This Appeal Brief was unsigned. On October 30, 2009 the examiner mailed a Notice of Defective Appeal Brief that indicated that the Brief was unsigned and gave a one month period to correct the Brief. When no response was received a Notice of Abandonment was mailed on May 26, 2010.

Applicant's petition alleges that a reply was filed by facsimile on November 27, 2009. A copy of the reply that included a cover sheet with a proper Certificate of Transmission is included with the petition. Besides the cover sheet, the reply

consisted of only a Table of Contents page, a Table of Authorities page and a signature page, but not a complete Appeal Brief. The petition also indicates that a copy of the applicant's facsimile transmission report showing the transmission of the reply was successful.

The facsimile transmission report included with the petition is noted, however, such a document cannot serve as proof of timely filing. Indeed, the only acceptable proof to accord an earlier filing date to a copy of a communication submitted by facsimile would be a Certificate of Transmission. The Certificate of Transmission on the reply of November 27, 2009 would be acceptable except for the extraneous issues outlined below.

> ***37 CFR 1.135. Abandonment for failure to reply within time period.***
> *(a) If an applicant of a patent application fails to reply within the time period provided under §1.134 and § 1.136, the application will become abandoned unless an Office action indicates otherwise.*
> *(b)* ***Prosecution of an application to save it from abandonment pursuant to paragraph (a) of this section must include such complete and proper reply as the condition of the application may require.*** *The admission of, or refusal to admit, any amendment after final rejection or any amendment not responsive to the last action, or any related proceedings, will not operate to save the application from abandonment.*
> *(c) When reply by the applicant is a bona fide attempt to advance the application to final action, and is substantially a complete reply to the non-final Office action, but consideration of some matter or compliance with some requirement has been inadvertently omitted, applicant may be given a new time period for reply under § 1.134 to supply the omission.*
>
> ***711.02 [R-3] Failure To Take Required Action During Statutory Period***
> *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)).*
>
> *Where a reply is filed after the set period for reply has expired and no petition or fee accompanies it, the reply will not be accepted as timely until the petition (which may be a constructive petition under*

37 CFR 1.136(a)(3)) and the appropriate fee are submitted. For example, if an Office action sets a 3-month period for reply and applicant replies in the 4th month and includes only the petition for a 1--month extension of time, the reply is not acceptable until the fee is filed. If the fee is not filed until the 5th month, an additional fee for the 2nd month extension would also be required in order to render the reply timely. MPEP 710.02(e).

The practice under 37 CFR 1.135(c) of giving applicant a time period to supply an omission in a bona fide reply does not apply after a final Office action. MPEP 714.03.

Initially, when applicant filed his Notice of Appeal it needed no extensions of time, but was not a complete reply due to a deficient Notice of Appeal fee. However, when applicant made good on the missing fee on May 20, 2009, the response had entered the 6th month after the mail date of the Final rejection. As such, because the time period for response continues to run until a reply is complete as per 37 CFR 1.135(b), as of May 20, 2009, the applicant needed a 3 month extension of time to be filed in order to make the Notice of Appeal qualify as a complete reply. While there is no question that the reply filed by the applicant was indeed a bona fide attempt to advance the prosecution, Notices of Non-compliance with a new time period for response are not issued for fee deficiencies, and furthermore, because the reply was after-final, no such Notice with a new time period for response could have been issued, MPEP 714.03.

When an unsigned or improperly signed amendment is received the amendment will be listed in the contents of the application file, but not entered. The examiner will notify applicant of the status of the application, advising him or her to furnish a duplicate amendment properly signed or to ratify the amendment already filed. In an application not under final rejection, applicant should be given a 1-month time period in which to ratify the previously filed amendment (37 CFR 1.135(c)). MPEP 711.01(a).

Furthermore, regarding the submission of the correctly signed Appeal Brief, the entirety of the Brief has not been filed, and therefore what was submitted is not considered to be a duplicate. Applicant filed only a new amended Table of Contents page, a new Table of Authorities page, and purportedly a replacement page 11 containing an appropriate signature. However, the replacement page 11 and the original page 11 do not match. Indeed, the signature block on the original Brief is located on page 12. So replacement of one page for another is not seen as being possible. Also, given the fact that the submission contains an amended Table of Contents page disqualifies it as a duplicate. Finally, there is

no indication of the reply being a ratification of the previously filed Brief. As such, it is not seen that the reply dated November 27, 2009 serves to adequately remedy the deficiency of the unsigned Appeal Brief.

Because, as outlined above, the additional fees provided on May 20, 2009 were insufficient to cause the Notice of Appeal to be complete and timely, and because there is no longer any time to perfect this Notice of Appeal, the application actually became abandoned on May 26, 2009. The subsequent Appeal Brief and Notice of Non-Compliant Appeal Brief are immaterial given the actual earlier date of abandonment. Therefore, the application remains properly held as being abandoned.

Telephone inquiries relative to this decision should be directed to Quality Assurance Specialist Steven Meyers at (571) 272-6611. Telephone inquiries regarding Petitions to Revive should be directed to the Office of Petitions Staff at (571) 272-3282.

Katherine Matecki

for Dave Talbott, Director
Patent Technology Center 3600
(571) 272-5150

snm: 9/27/10

SM

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/178,234	07/08/2005	Michael J. Emoff	704	6126

26366 7590 06/30/2011

ROGER S. DYBVIG
22 GREEN STREET
DAYTON, OH 45402

EXAMINER	
KUMAR, RAKESH	

ART UNIT	PAPER NUMBER
3651	

MAIL DATE	DELIVERY MODE
06/30/2011	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE
BOARD OF PATENT APPEALS AND INTERFERENCES

Ex parte MICHAEL J. EMOFF and JOHN A. BONGIORNO

Application 11/178,234
Technology Center 3600

DECISION ON PETITION

This is a decision on the "Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b)" filed February 3, 2011 (Petition).

See 75 Fed. Reg. 15,689-90 (Mar. 30, 2010) for authority of the Chief Administrative Patent Judge.

FINDINGS

1. On October 8, 2009, Appellants filed an Appeal Brief.

2. On October 30, 2009, the Patent Appeal Center Specialist issued a Notification of Non-Compliant Appeal Brief (37 CFR 41.37).

The Notification granted Appellants a period of one month or thirty days, whichever was longer, within which to file a corrected brief, i.e., until November 30, 2009.

3. On May 26, 2010, the Examiner issued a Notice of Abandonment.

4. On June 22, 2010, Appellants filed a letter requesting that the Notification of Non-Compliant Appeal Brief be vacated.

5. On November 17, 2010, the Technology Center Director treated the letter of June 22, 2010 as a petition to withdraw the holding of abandonment under 37 C.F.R. § 1.181 and dismissed the petition, leaving the application abandoned.

6. On February 3, 2011, Appellants filed the present Petition and an Appeal Brief.

7. In respect to revival of an unintentionally abandoned application, 37 C.F.R. § 1.137(b) provides that:

> (b) *Unintentional.* If the delay in reply by applicant or patent owner was unintentional, a petition may be filed pursuant to this paragraph to revive an abandoned application, a reexamination prosecution terminated under § 1.550(d) or § 1.957(b) or limited under § 1.957(c), or a lapsed patent. A grantable petition pursuant to this paragraph must be accompanied by:
>
> (1) The reply required to the outstanding Office action or notice, unless previously filed;
>
> (2) The petition fee as set forth in § 1.17(m);
>
> (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Director may require additional information where there is a question whether the delay was unintentional; and

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

8. The Petition to Revive filed February 3, 2011, was accompanied by:

(a) an Appeal Brief;

(b) the Petition fee; and

(c) A statement that "The entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional."

9. There are no facts known by the Office that would cause the Office to question whether either the abandonment or delay in filing the Petition to Revive was unintentional.

10. Since the application was filed after June 8, 1995, on July 8, 2005, no terminal disclaimer is required.

11. A review of the Appeal Brief filed on February 3, 2011 indicates that it is in compliance with 37 C.F.R. § 41.37.

DISCUSSION

As indicated above, Appellants have complied with all of the requirements of a petition under 37 C.F.R. § 1.137(b) for revival of an unintentionally abandoned application.

DECISION

In view of the foregoing, the "Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b)" is GRANTED and the Appeal Brief of February 3, 2011 will be returned to the Examiner for preparation of an Examiner's Answer.

Merrell C. Cashion, Jr.
Case Management Administrator

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : September 7, 2011

TO SPE OF : ART UNIT 1652

SUBJECT : Request for Certificate of Correction for Appl. No.: 11178560 Patent No.: 7575904

CofC mailroom date: Sept. 23, 2009

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

_____
Certificates of Correction Branch
703-756-1814 _____

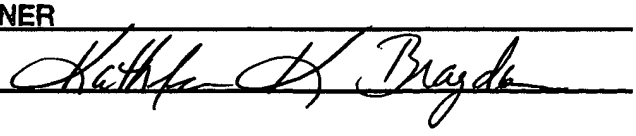
Thank You For Your Assistance

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

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

Comments: _____

KATHLEEN KERR BRAGDON, PH.D.
SUPERVISORY PATENT EXAMINER



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500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

MAILED

NOV 04 2010

OFFICE OF PETITIONS

In re Application of :
Schoner , :
Application No. 11/178,567 : ON APPLICATION FOR
Filed: July 11, 2005 : PATENT TERM ADJUSTMENT
Atty Docket No. 13699US03 :

This is in response to the APPLICTION 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 September 13, 2010. Applicant submits that the correct patent term adjustment to be indicated on the patent is eight hundred seven (807) days, not five hundred sixty-five (565) 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 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, 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) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

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

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

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

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

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

Perman & Green, LLP
99 Hawley Lane
Stratford CT 06614

MAILED

JAN 25 2011

OFFICE OF PETITIONS

In re Application of :
Hall et al. : DECISION ON PETITION
Application No. 11/178,836 :
Filed: July 11, 2005 :
Atty Docket No. 390-011657 :
-US(PAR) :

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) filed December 17, 2010.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a reply to the non-final Office action mailed May 27, 2008. This Office action set a shortened statutory period for reply of three (3) months, with extensions of time obtainable under § 1.136(a). No reply considered timely filed and no extension of time considered obtained, the application became abandoned effective August 28, 2008. A courtesy Notice of Abandonment was sent on December 8, 2008.

The petition includes the required reply in the form of an amendment, the statement of unintentional delay and payment of the petition fee. The petition also includes an additional statement by attorney Knotts to show that the entire delay was unintentional. No terminal disclaimer is required.

It is noted, however, that this application has been abandoned for an extended period of time. The Office is relying on petitioner's duty of good faith and candor in accepting the

assertion that the entire delay in filing the required reply was unintentional. See 37 CFR 10.18.

Technology Center AU 1792 has been advised of this decision. The application is, thereby, forwarded to the examiner for consideration of the reply submitted on petition filed December 17, 2010.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ABEL LAW GROUP, LLP
7300 FM2222
Bldg 1, Ste 210
AUSTIN TX 78730

MAILED

APR 12 2011

OFFICE OF PETITIONS

In re Application of	:	
Mark W. Simon	:	
Application No. 11/179,030	:	ON APPLICATION FOR
Filed: Jul. 11, 2005	:	PATENT TERM ADJUSTMENT
Atty Docket No.	:	
1035-OFS4402-B	:	

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT filed on March 2, 2011. Applicants submit that the correct patent term adjustment to be indicated on the patent is 1186 days, not 810 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.

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 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

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

after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

To the extent that the instant application for patent term adjustment requests reconsideration of the PTA at the time of the mailing of the Notice of Allowance, the request is **DISMISSED**.

On August 23, 2010, the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) was mailed. The patent term adjustment at the time of the mailing of the Notice of Allowance was 810 days (919 days of Office delay and 109 days of applicant delay). This application for patent term adjustment was timely filed with or prior to payment of the issue fee.[2]

Applicants disclose that an additional period of applicant delay of 92 days should be entered in connection with the Request for Continued Examination (RCE) filed on June 29, 2010, in response to the notice of appeal filed on January 29, 2010.

37 CFR 1.704(b) states, in pertinent part, that an applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of three months that are taken to reply to any notice or action by the Office making any rejection, objection, argument, or other request. However, the filing of a notice of appeal is not a notice or action by the Office within the meaning of 37 CFR 1.704(b). Accordingly, no reduction for applicant delay is due in connection with the filing of a request for continued examination filed after the filing of a notice of appeal.

The Office thanks applicants for their good faith and candor in bringing this to the attention of the Office.

The address in the petition is different than the correspondence address. A courtesy copy of this decision is being mailed to the address in the petition. All future correspondence, however, will be mailed solely to the address of record. A change of correspondence address should be filed if the correspondence address needs to be updated.

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

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 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 if applicable, for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Cc:

LARSON NEWMAN & ABEL, LLP
5914 WEST COURTYARD DRIVE
SUITE 200
AUSTIN TX 78730

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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LARSON NEWMAN & ABEL, LLP
5914 WEST COURTYARD DRIVE
SUITE 200
AUSTIN TX 78730

MAILED

MAR 31 2011

OFFICE OF PETITIONS

In re Application of	:	
Mark W. Simon	:	
Application No. 11/179031	:	ON APPLICATION FOR
Filing or 371(c) Date: 07/11/2005	:	PATENT TERM ADJUSTMENT
Atty Docket No.:	:	
1035-OFS4402-C	:	

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT, filed February 28, 2011. Applicant requests that the Patent Term Adjustment be set at 1062 days, not 788 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction solely on the basis that the Office will take in excess of three years to issue this patent. The application for patent term adjustment is properly treated under 37 C.F.R. § 1.705(b).

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

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

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

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is

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

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

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

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

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

/DLW/

Derek L. Woods
Attorney
Office of Petitions

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

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7183890	2007-02-27	11179176	2005-07-12	1426.001

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

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

SURCHARGE

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

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

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.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/WBUSKOP/	Date (YYYY-MM-DD)	2011-09-01
Name	Wendy Buskop	Registration Number	32202

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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In re Patent No. 7183890
Issue Date: February 27,2007
Application No. 11179176
Filed: July 12,2005
Attorney Docket No. 1426.01

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

This is a decision on the electronic petition, filed September 1,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of September 1,2011 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110627

DATE : June 27, 2011

TO SPE OF : ART UNIT 1645

SUBJECT : Request for Certificate of Correction on Patent No.: 7902344

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

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

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

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

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

Note your decision on the appropriated box.

☒ **Approved** All changes apply.

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

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

Comments:

/GARY NICKOL/
Supervisory Patent Examiner.Art Unit 1645

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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CHAPIN INTELLECTUAL PROPERTY LAW, LLC
WESTBOROUGH OFFICE PARK
1700 WEST PARK DRIVE, SUITE 280
WESTBOROUGH MA 01581

MAILED

MAR 28 2011

OFFICE OF PETITIONS

In re Application of

Yu, et al.

Application No. 11/179,298

Filed: July 12, 2005

Attorney Docket No. **AVA10-59**

DECISION ON PETITION

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a proper response to the final Office action mailed June 16, 2010. The final Office action set a shortened statutory period for reply of three months from its mailing date. No response was received, and the application became abandoned on September 17, 2010. A Notice of Abandonment was mailed December 20, 2010.

The Request for Continued Examination filed February 15, 2011, is noted.

The application file is being forwarded to Technology Center 2400, GAU 2462 for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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TARO PHARMACEUTICALS U.S.A., INC.
C/O VENABLE LLP
P.O. BOX 34385
WASHINGTON, DC 20043-9998

MAILED
JUN 24 2011
OFFICE OF PETITIONS

In re Application of :
Sandhya Goyal, et al. :
Application No.: 11/179,719 : ON PETITION
Filed: July 12, 2005 :
Attorney Docket No.: 32308-232917 (1036 US5) :

This is a decision on the petition, filed June 23, 2011, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is not signed by a registered attorney or agent of record. However, in accordance with 37 CFR 1.34(a), the signature of Michael A. Gollin appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on May 20, 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 1613 for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement (IDS).

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Forest Laboratories, Inc.
Attn: Charles S. Ryan
500 COMMACK ROAD
Commack NY 11725

MAILED

AUG 02 2010

OFFICE OF PETITIONS

In re Application of :
Campbell et al. :
Application No. 11/179,797 :
Filed: July 12, 2005 : ON APPLICATION FOR
Attorney Docket No. 024.6US1 : PATENT TERM ADJUSTMENT
Title: CONSTRAINED CYANO :
COMPOUNDS :

This is in response to the "STATEMENT OF FACTS UNDER 37 C.F.R. §1.705(b)(2) IN SUPPORT OF APPLICATION FOR PATENT TERM ADJUSTMENT" filed April 19, 2010. Applicants submit that the correct patent term adjustment to be indicated on the patent is one thousand four hundred sixty-seven (1,467) days, not seven hundred fifteen (715) 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].

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

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

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

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

Anthony Knight
Director
Office of Petitions

UNITED STATES 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. 7311636
Issue Date: December 25,2007
Application No. 11179906
Filed: July 12,2005
Attorney Docket No. 28380-RA

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

This is a decision on the electronic petition, filed March 20,2012 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of March 20,2012 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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)
7311636	2007-12-25	11179906	2005-07-12	

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

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.

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	/Peter Regula/	Date (YYYY-MM-DD)	2012-03-20
Name	Peter P. Regula		

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 29 2011

PCT LEGAL ADMINISTRATION

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON DC 20037

In re Application of	:	DECISION ON
ZILBERG et al	:	
Application No.: 11/179,911	:	
Filing Date: 11 January 2010	:	PETITION UNDER
Attorney's Docket No.: CQ10436	:	
For: ALGORITHM FOR AUTOMATIC POSITIVE AIR PRESSURE TITRATION	:	37 CFR §§1.78(a)(3) and (a)(6)

This is in response to applicants' communication "PETITION TO ACCEPT AN UNINTENTIONALLY DELAYED CLAIM UNDER 35 USC §119(e) AND 35 USC § 120," filed on 16 December 2010, which is being treated as a petition under 37 CFR §§1.78(a)(3) and (a)(6).

The petition is **GRANTED**.

The present nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed international and provisional applications is submitted after expiration of the period 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 petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

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

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

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

The instant nonprovisional application was filed on 16 September 2010 and the claim for benefit herein is submitted after the 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, 365(c) and 119(e).

Regarding requirement (1), a proper reference to the prior-filed applications have been included in an amendment to the first sentence of the specification following the title by inserting the proper relationship to the parent international application PCT/IB2004/000704, and the provisional application 60/443,762, as required by 37 CFR 1.78(a)(2)(iii) and 1.78(a)(5)(iii).

Regarding requirement (2), the surcharge has been provided.

Regarding requirement (3), the statement that, [t]he entire delay between the date the claim was due under paragraph (a)(5)(ii) of 37 CFR §1.78 and the date the claim is being filed was unintentional" is being construed as 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." Petitioner must immediately notify the Office of PCT Legal Administration if such an interpretation of the statement in the petition is not correct.

Accordingly, having found that the petition for acceptance of an unintentionally delayed claim 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 1.78(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 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 365(c) 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 this application is entitled to the benefit of the earlier filing date.

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

CONCLUSION

For the reasons above, the petition under 37 CFR §§1.78(a)(3) and (a)(6) is **GRANTED**.

Any questions concerning this matter may be directed to Rafael Bacares at (571) 272-3276. All other inquires concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application will be forwarded to Technology Center Art Unit 3735 for consideration by the examiner of applicants' entitlement to claim benefit to the prior-filed applications.

Rafael Bacares
Legal Examiner
PCT Legal Administrative Office
Telephone: (571) 272-3276
Facsimile: (571) 273-0459

Boris Milef
Legal Examiner
PCT Legal Administrative Office

UNITED STATES PATENT AND TRADEMARK OFFICE

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QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO CA 92121

MAILED

AUG 25 2010

OFFICE OF PETITIONS

In re Application of :
Xinping ZHANG :
Application No. 11/180,001 : DECISION ON PETITION
Filed: July 12, 2005 :
Attorney Docket No. **050230** :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed July 26, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the Issue and Publication fees on or before December 28, 2009, as required by the Notice of Allowance and Fee(s) Due (Notice), mailed September 28, 2009, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on December 29, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1510 and the publication fee of $300, (2) the petition fee of $1620; and (3) a proper statement of unintentional delay. Accordingly, the failure to timely pay the issue fee as required by the Notice of Allowance and Fee(s) is accepted as being unintentionally delayed.

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

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

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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REED SMITH LLP
2500 ONE LIBERTY PLACE
1650 MARKET STREET
PHILADELPHIA PA 19103

MAILED

JAN 03 2011

OFFICE OF PETITIONS

In re Application of :
Anthony Vitrano, Jr., et al. :
Application No. 11/180,144 : DECISION ON PETITION
Filed: July 13, 2005 :
Attorney Docket No. 09-40216-US :

This is a decision on the 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 timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of January 15, 2010. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(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 April 16, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of 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 JoAnne Burke at (571)272-4584.

This application is being referred to Technology Center AU 2168 for appropriate action by the Examiner in the normal course of business.

JoAnne Burke
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3-23-11

TO SPE OF : ART UNIT 1646

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/180,219 Patent No.: 7,521,206

CofC mailroom date: 3-9-11

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

FOR IFW FILES: Should CofC be Approved

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

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

FOR PAPER FILES:

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

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

Connie 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: The requested changes/corrections to the title page and the Figures should be entered. The new sequence listing should not be entered, since it contains several differences from the previous sequence listing of record, and no explanation of the sequence changes was provided. There are unexplained changes in the description of features as well as in the sequences themselves.

Gary Nickol
Digitally signed by Gary Nickol
DN: cn=Gary Nickol, c=US, o=Patents, ou=1646, email=gary.nickol@uspto.gov
Reason: I have reviewed this document
Date: 2011.05.11 09:44:31 -04'00'

SPE 1646 **Art Unit**

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LIVERMORE CA 94551

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FEB 01 2011

OFFICE OF PETITIONS

In re Application of :
Charles A. Miller :
Application No. 11/180,247 : DECISION ON PETITION
Filed: July 12, 2005 :
Attorney Docket No. P88C3-US :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 25, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers (Notice) mailed September 2, 2005, which set a shortened statutory period for reply of two (2) months. No extensions of time under the provisions of 37 CFR 1.136(a) were timely obtained. Accordingly, the above-identified application became abandoned on November 3, 2005. A Notice of Abandonment was mailed on May 8, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) Replacement drawings, (2) the petition fee of $1500.00, 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, it is not apparent whether the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute this patent application. In accordance with 37 CFR 1.34(a), the signature appearing on the petition

shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts. Further, 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.

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 $1,590.00, four-month extension of time fee submitted with the petition on July 25, 2006 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.

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

This application is being referred to the Office of Patent Application Processing for further processing in accordance with this decision on petition.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Kirton & McConkie
1800 Eagle Gate Tower
60 East South Temple
P.O. Box 45120
Salt Lake City, Utah 84111-1004

UNITED STATES PATENT AND TRADEMARK OFFICE

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Lesavich High-Tech Law Group, P.C.
Suite 325
39 S. LaSalle Street
Chicago IL 60603

MAILED

MAY 3 1 2011

OFFICE OF PETITIONS

In re Application of :
Leslie Rosenthal et al. :
Application No. 11/180,330 : DECISION ON PETITION
Filed: July 12, 2005 : TO WITHDRAW
Attorney Docket No. 04,119-A : 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 3, 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 a proper forwarding address was not 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.

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

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Lesavich High-Tech Law Group, P.C.
Suite 325
39 S. LaSalle Street
Chicago IL 60603

MAILED

MAY 3 1 2011

OFFICE OF PETITIONS

In re Application of :
Leslie Rosenthal et al. :
Application No. 11/180,330 :
Filed: July 12, 2005 :
Attorney Docket No. 04,199-A :

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 May 3, 2011.

The request is **NOT APPROVED.**

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

Accordingly, the request to withdraw from record cannot be approved because there was no proper forwarding correspondence address was provided. The forwarding address should be that of that of: (1) the first named inventor; or (2) an assignee of the entire interest under 37 C.F.R 3.71. If an assignee has ownership in this application, then a current Statement under 37 CFR 3.73(b) or a copy of the actual assignment must be provided with a renewed request.

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

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4618.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JEFFREY SCOTT MASTROIANNI
1532 RENOIR AVENUE
SWANSEA IL 62226

MAILED

AUG 3 0 2010

OFFICE OF PETITIONS

In re Application of :
Jeffrey Scott Mastroianni :
Application No. 11/180,359 : DECISION ON PETITION
Filed: July 13, 2005 :
Attorney Docket No. Mastrolanni-1 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 21, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the nonfinal Office action mailed June 23, 2008, is accepted as having been unintentionally delayed.

Petitioner states in the petition that a Request for Continued Examination was filed with the response. However, the Office is not in receipt of such.

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

This application is being referred to Technology Center AU 2841 for appropriate action by the Examiner in the normal course of business on the reply received January 21, 2010.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110606

DATE : June 06, 2011

TO SPE OF : ART UNIT 3641

SUBJECT : Request for Certificate of Correction on Patent No.: 7,624,726

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 CARONE/
Supervisory Patent Examiner.Art Unit 3641

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 3/17/09 Paper No.: _____

TO SPE OF : ART UNIT 2612

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/180524 Patent No.: 7423553

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

Valerie Jackson
Certificates of Correction Branch
703-308-9390 ext. 114

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: _____

/Benjamin C. Lee/ 2612
SPE **Art Unit**

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: 080437.56400US	Patent Number: 7,654,002
Filing Date (or 371(b) or (f) Date): July 14, 2005	Issue Date: February 02, 2010
First Named Inventor: Cristian DRAGOI	
Title: Side Member for a Vehicle	

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

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

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

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

Signature	Date August 2, 2010
Name (Print/Typed) Jeffrey D. Sanok	Registration Number 32,169

*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 22313-1 450.**

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON, DC 20044-4300

Mail Date: 08/12/2010

Applicant	: Cristian Dragoi	: DECISION ON REQUEST FOR
Patent Number	: 7654002	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/180,626	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/14/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **996** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BAKER BOTTS L.L.P.
2001 ROSS AVENUE
SUITE 600
DALLAS, TX 75201-2980

MAILED
SEP 07 2010
OFFICE OF PETITIONS

In re Application of :
Francisco L. Le Faucheur, et al. :
Application No. 11/180,824 : DECISION DISMISSING PETITION
Filed: July 12, 2005 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 062891.1575 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed September 3, 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 September 3, 2010. Therefore, as the case has now issued, the petition to withdraw from issue cannot be granted.

The request for continued examination (RCE) filed concurrently with the petition is improper in view of the issuance of this application into a patent and will not be processed. Accordingly, the $810 filing fee and the $130 petition fee submitted are unnecessary and will be refunded in due course.

The Information Disclosure Statement has been made of record in the file of the above-identified application without further consideration. *See* 37 CFR 1.97(i).

Petitioner is advised, that while petitions to withdraw from issue may be electronically filed to the Commissioner for Patents, as was done in this case, applicants were cautioned to hand carry or fax petitions to withdraw from issue directly to the Office of Petitions. *See* MPEP § 1308.

Telephone inquiries regarding this decision should be directed to undersigned at (571) 272-1642.

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

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** which changes **do not** apply. — Specify below
- ❑ **Denied** denial below. — State the reasons for

Comments: The requested changes do not include new matter nor change the scope of the claims and consequently have been approved.

SPE
Art Unit 2617

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JOHN S. PRATT, ESQ
KILPATRICK TOWNSEND & STOCKTON LLP
1100 PEACHTREE STREET
SUITE 2800
ATLANTA GA 30309

MAILED

JUN 16 2011

OFFICE OF PETITIONS

In re Application of :
Chaitanya Narula et al. :
Application No. 11/181,314 : DECISION ON PETITION
Filed: July 14, 2005 : TO WITHDRAW
Attorney Docket No. **R3990/287006** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed June 2, 2011.

The request is **NOT APPROVED**.

The request cannot be approved because the requested change in the correspondence address is improper.

The Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest *who properly became of record under 37 CFR 3.71,* or, if no assignee of the entire interest has properly been made of record, the most current address information provided for the first named inventor. 37 CFR 3.71(c) states:

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

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).

Therefore, as there is currently no Statement under 37 CFR 3.73(b) with the current assignee information of record in the instant application, the Office cannot change the correspondence address to the address on the Request to Withdraw at this present time.

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

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

JoAnne Burke
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JOHN S. PRATT, ESQ
KILPATRICK TOWNSEND & STOCKTON LLP
1100 PEACHTREE STREET
SUITE 2800
ATLANTA GA 30309

MAILED

AUG 04 2011

OFFICE OF PETITIONS

In re Application of :
Chaitanya Narula et al. :
Application No. 11/181,314 : DECISION ON PETITION
Filed: July 14, 2005 : TO WITHDRAW
Attorney Docket No. **R3990/287006** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed July 20, 2011.

The request is **APPROVED**.

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

The request was signed by James L. Ewing, IV on behalf of all attorneys of record who are associated with Customer Number 23370.

All attorneys/agents associated with Customer Number 23370 have been withdrawn.

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

The correspondence address of record has been changed and all future correspondence will be directed to the first named inventor Scott Thiele at the address indicated below.

There is an outstanding Office action mailed December 7, 2010 that requires a reply from the applicant.

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

/JoAnne Burke/
JoAnne Burke
Petitions Examiner
Office of Petitions

cc: Chaitanya Narula
631 Blue Heron Road
Knoxville, TN 37934

UNITED STATES 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 22 2010

OFFICE OF PETITIONS

JOHN RUSSELL UREN, P. ENG.
2431 SIMPSON ROAD
RICHMOND, BC V6X 2R2 CA CANADA

In re Application of :
Barry Kane Retchloff :
Application No. 11/181,367 : ON PETITION
Filed: July 13, 2005 :
Attorney Docket No.: QUA44601 :

This is a decision in response to the "Petition for Revival of an Application for Patent Abandoned for Failure to Notify the Office of a Foreign or International Filing (37 CFR 1.137(f))", filed July 23, 2010, which is being treated as a petition to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **DISMISSED**.

It is noted that a nonpublication request under 35 U.S.C. 122(b)(2)(B)(I) was not filed in this case. Consequently, abandonment by operation of 35 U.S.C. 122(b)(2)(B)(iii) is unlikely. A review of the record discloses that the application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed November 19, 2009. A Notice of Abandonment was mailed on June 14, 2010. On July 23, 2010, the present petition was filed, along with a 3-month petition for extension of time.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply, i.e., May 10, 2010. *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 July 23, 2010 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's credit card.

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

The petition lacks item (3) above.

Petitioner has supplied a 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. Also, the requisite petition fee has been paid. However, the petition lacks the statement required by 37 CFR 1.137(b)(3). Consequently, the petition cannot be granted until an adequate statement of unintentional delay is filed.

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

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

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

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

By Internet: EFS-Web[1]

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JOHN RUSSELL UREN, P. ENG.
2431 SIMPSON ROAD
RICHMOND BC V6X 2R2 CA CANADA

MAILED
DEC 16 2010
OFFICE OF PETITIONS

In re Application of :
Barry Kane Retchloff :
Application No. 11/181,367 : ON PETITION
Filed: July 13, 2005 :
Attorney Docket No.: QUA44601 :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed October 27, 2010, to revive the above-identified application.

The petition is **GRANTED**.

A review of the record discloses that this application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed November 19, 2009. A Notice of Abandonment was mailed on June 14, 2010. On July 23, 2010 a petition to revive under 37 CFR 1.137(b) was filed; however, the petition was dismissed in a decision mailed September 22, 2010. In response, 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 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 3637 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

STOUT, UXA, BUYAN & MULLINS LLP
4 VENTURE, SUITE 300
IRVINE CA 92618

MAILED

AUG 2 7 2010

OFFICE OF PETITIONS

In re Patent No. :
7,290,940 :
Application No. 11/181,373 : DECISION GRANTING PETITION
Filing Date: July 13, 2005 :
Issue Date: November 6, 2007 :
Attorney Docket No. **BI9797P**

This is a decision on the renewed petition under 37 CFR 1.182, filed July 12, 2010, requesting issuance of duplicate Letters of Patent for the above-identified patent.

The petition is **granted**.

The file record discloses that the instant application matured into U.S. Patent No. 7,290,940 on November 6, 2007. Petitioner contends, however, that the patent was never received and it is presumed lost in the mail.

In view of the facts set forth in the petition, it is concluded that the original Letters of Patent was not received. The Office of Data Management is directed to issue duplicate Letters of Patent.

Any questions concerning this decision may be directed to the undersigned at (571)272-3222. Any questions concerning issuance of the duplicate Letter of Patent should be directed to Niomi Farmer, Office of Data Management at (703) 308-9250 extension 129.

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

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

cc: Niomi Farmer—Office of Data Management FAX: 571-270-9753

Johnson & Johnson

OFFICE OF
GENERAL COUNSEL

ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, N.J. 08933-7003

June 1, 2009

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

ENTER IN PART: /S.B./

/S.B./ 07/14/2011

Dear Sir:

Re: U.S. Patent No. 7,429,623
Serial No. 11/181,510
Our File: VTN-593DIV

Dear Sir:

It is respectfully requested that a Certificate of Correction be issued to correct the error(s) as set forth in the attached form and in compliance with amended Rule 37 CFR 1.322 and 35 USC 254. Because this request is filed under 37 CFR 1.322, no fee is due.

You are hereby authorized to charge Johnson & Johnson Deposit Account No. 10-0750/VTN-593DIV/KAH for any fees which may be due with regard to the above Certificate of Correction.

Very truly yours,

Karen A. Harding
Attorney for Assignee
Reg. No. 33,967

Attachment
One Johnson & Johnson Plaza
New Brunswick, NJ 08933-7003
(904) 443-3074

ENTER IN PART: /S.B./

/S.B./ 07/14/2011

PTO/SB/ 44 (10-96)
Approved for use through 6/30/99. OMB 0651-0033
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. : 7,429,623
DATED : September 30, 2008
INVENTOR(S) : Frank F. Molock
Annie C. Maiden
Xiaoping Lin
Carrie L. Caison
Michael R. Clark
Robert Love

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

Column 15, line 20, $(BiO)N_{03}$ should be changed to $(BiO)NO_3$

Column 15, line 21, $(BiO)_2C_{03}$ should be changed to $(BiO)_2CO_3$

Column 17, Line 25, Claim 30 should be deleted in its entirety

Column 18, Line 27, the word "about" should be inserted between the words "of" and "less"

Column 18, Line 28, the words "which comprise" should be replaced by the words "and comprising"

~~Column 18, Line 29, the word "and" should be inserted after the word~~ "group,"

MAILING ADDRESS OF SENDER:
Karen A. Harding
Johnson & Johnson
One Johnson & Johnson Plaza
New Brunswick, NJ 08933-7003

PATENT NO. 7,429,623

No. of additional copies

+

Burden Hour Statement: This form is estimated to take 1.0 hour to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

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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WEISS & ARONS, LLP
1540 ROUTE 202, SUITE 8
POMONA NY 10970

MAILED

OCT 06 2011

OFFICE OF PETITIONS

In re Patent No. 7,613,308 :
Issued: November 3, 2009 :
Application No. 11/181,601 : ON PETITION
Filed: July 13, 2005 :
Attorney Docket No. 132-005PAC2 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed September 12, 2011.

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

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

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

This 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
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PEARLCOHEN ZEDEK LATZER, LLP
1500 BROADWAY
12TH FLOOR
NEW YORK NY 10036

MAILED

MAR 23 2011

OFFICE OF PETITIONS

In re Application of :
Yefim Kuperschmidt et al :
Application No. 11/181,618 : DECISION ON PETITION
Filed: July 13, 2005 :
Attorney Docket No. P-71648-US :

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

The petition is **GRANTED**.

The 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 nonfifnal Office action mailed January 19, 2010, is accepted as having been unintentionally delayed.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

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

This application is being referred to Technology Center AU 2617 for appropriate action by the Examiner in the normal course of business.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions
Cc:

OREN RECHES
211 NORTH UNION STREET, SUITE 100
ALEXANDRIA, VA 22314

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OSHA LIANG L.L.P.
TWO HOUSTON CENTER
909 FANNIN, SUITE 3500
HOUSTON TX 77010

MAILED

SEP 13 2010

OFFICE OF PETITIONS

In re Patent of Ohmi et al.
Patent No. 7,667,276
Issue Date: February 23, 2010
Application No. 11/182,026
Filed: July 15, 2005
Atty. Docket No. 02008/428001

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

This is a decision on the petition filed on May 17, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by seven hundred ninety-six (796) days.

The present petition was timely filed within one month of the mailing of a dismissal on Request for Recalculation, mailed April 20, 2010. Patentees assert that the above-noted application does not meet any of the exclusion criteria provided in the April 20, 2010 decision. Therefore, patentees assert the Office improperly dismissed their request, filed February 8, 2010. Petitioners again request recalculation. The Instruction Sheet for the Request for Recalculation of Patent Term Adjustment in View of Wyeth states, "**Do not use this form if the application has been allowed, but not yet issued as a patent.**" The Request for Recalculation of Patent Term Adjustment in View of Wyeth was filed on February 8, 2010, which was ***prior*** to the patent's issue date, February 23, 2010. Therefore, the February 8, 2010 Request for Recalculation was properly dismissed, as no patent had issued when the request was filed. As required by the April 20, 2010 decision, deposit account no. 50-0591 will be charged the required $200.00 fee under 37 CFR 1.18(e).

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by seven hundred ninety-six (796) days is **granted to the extent indicated herein**.

Patentees assert that the above-noted application is entitled to patent term adjustment equal to 238 days per 35 U.S.C. 154(b)(1)(A) + 588 per 35 U.S.C. 154(b)(1)(B) – 30 days of Applicant delay = 796 days.

The Office concurs with patentees' assertion of the period of Applicant delay.

The Office finds the period of delay per 35 U.S.C. 154(b)(1)(A) is 343 (238 + 105) days, not 238 days as asserted by patentees. Patentees' calculation does not include the period of delay of 105 days for the failure by the Office to respond to a reply under 35 U.S.C. 132 not later than four months after the date on which the reply was filed, pursuant to § 1.702(a)(2). The period begins on January 30, 2009, the day that is four months after a reply was filed, and ends on May 14, 2009, the date a non-final Office action was mailed in response.

The Office finds the period of delay per 35 U.S.C. 154(b)(1)(B) (hereinafter, "B delay period") is 433 days. The maximum potential B delay period is 588 days, the period beginning on July 16, 2008, the day after three years after the application's filing date, and ending on February 23, 2010, when the patent issued. However, a period of 155 days is excluded from the B delay period as time consumed by appellate review.

Pursuant to 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 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.

In this case, the period of appellate review began when a notice of appeal was filed on December 11, 2008, and ended on May 14, 2009, when a non-final Office action was mailed. The time consumed by the period of appellate review was 155 days. Excluding 155 days from the period of B Delay as a result of time consumed by appellate review, the B delay period is 433 (588 – 155) days.

In light thereof, the correct patent term adjustment is **746 days**, which is the sum of 343 days of delay under 35 U.S.C. § 154(b)(1)(A) and 433 days of B Delay and reduced by 30 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, patentee is given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

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

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

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **seven hundred forty-six (746)** days.

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

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,667,276 B2

DATED : **February 23, 2010** **DRAFT**

INVENTOR(S) : Ohmi 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 558 days

Delete the phrase "by 558 days" and insert – by 746 days--

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 01/05/2011

TO SPE OF : ART UNIT: 2156 Attn: VITAL PIERRE M (SPE)

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/182117 Patent No.: 7603390

CofC Mailroom date: 12/29/10

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

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

Thank You For Your Assistance

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

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

Comments: _____

_____

_____

Pierre Vital
2156
SPE **Art Unit**

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WAYNE J COLTON INC
THE MILAM BUILDING SUITE 1032
115 EAST TRAVIS STREET
SAN ANTONIO TX 78205

MAILED

FEB 16 2011

OFFICE OF PETITIONS

In re Application of
Nandakumar
Application No. 11/182,146
Filed: July 15, 2005
Attorney Docket No. 1127.1490
For: NETWORK TOPOLOGY FOR PROCESSING CONSUMER FINANCIAL TRANSACTIONS

DECISION ON PETITION

This is a decision on the petition, filed December 29, 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 to withdraw the holding of abandonment is **GRANTED**.

This application was held abandoned for failure to reply to the non-final Office action mailed May 5, 2010, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on November 16, 2010.

Petitioner contends a reply to the non-final Office action was submitted on November 5, 2010. Petitioner states that an amendment, request for a three-month extension of time, and certificate of mailing were filed on November 5, 2010 with a certificate of mailing dated November 5, 2010. Petitioner also notes that the reply has been located in the electric files of the Office.

Pursuant to 37 CFR 1.8, correspondence will be considered timely if the party who forwarded such correspondence:

1) Correspondence will be considered as being timely filed if:
(i) The correspondence is mailed or transmitted prior to expiration of the set period of time by being:
(A) Addressed as set out in § 1.1(a) and deposited with the U.S. Postal Service with sufficient postage as first class mail;
(B) Transmitted by facsimile to the Patent and Trademark Office in accordance with § 1.6 (d); or
(C) Transmitted via the Office electronic filing system in accordance with § 1.6(a)(4); and
(ii) The correspondence includes a certificate for each piece of correspondence stating the date of deposit or transmission. The person

signing the certificate should have reasonable basis to expect that the correspondence would be mailed or transmitted on or before the date indicated.

The petition satisfies the above requirements of 37 CFR 1.8. Accordingly, the holding of abandonment for failure to timely file a reply to the Office action of May 5, 2010 is hereby withdrawn and the application restored to pending status.

The Office has located the original reply received on November 9, 2010

This application is being referred to Technology Center AU 3694 for appropriate action in the normal course of business on the reply received on November 9, 2010.

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

Charlema Grant
Petitions Attorney
Office of Petitions

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INTERNATIONAL BUSINESS MACHINES CORP.
IP LAW
555 BAILEY AVENUE, J46/G4
SAN JOSE, CA 95141

MAILED

APR 13 2011

OFFICE OF PETITIONS

In re Application of :
Ronny Lempel et al :
Application No. 11/182,334 : ON PETITION
Filed: July 14, 2005 :
Attorney Docket No. ENFORCING NATIVE ACCESS CONTROL TO INDEXED DOCUMENTS

This is a decision on the petition, filed April 11, 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 March 25, 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.

This matter is being referred to Technology Center AU 2156 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: Janaki K. Davda
Konrad Raynes & Victor, LLP
315 South Beverly Drive, Ste. 210
Beverly Hills, CA 90212

---

[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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In re Patent No. 7193698
Issue Date: March 20,2007
Application No. 11182798
Filed: July 18,2005
Attorney Docket No. 0941-1269PUS1

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

This is a decision on the electronic petition, filed April 6,2012 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of April 6,2012 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7,193,698	2007-03-20	11/182,798	2005-07-18	LKSP0154USA

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

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

SURCHARGE

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

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

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

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Winston Hsu/	Date (YYYY-MM-DD)	2012-04-06
Name	Winston Hsu	Registration Number	41526

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

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P.O. Box 1450
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Patent No. : **7951077**
Ser. No. **11/182995**
Inventor(s) : **SAYEG, AYOUB_**
Issued : **05/31/2011**
Title : **METHOD AND INSTRUMENTS FOR BREAST AUGMENTATION MAMMAPLASTY**
Docket No. : **SPSC 0101 PUS**

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.

A Certificate of Correction will be issued for the remaining errors.

Omega Lewis
For Mary Diggs
Decisions & Certificates
of Correction Branch
(703)756-1575 or (703) 756-1814

BROOKS KUSHMAN P.C.
1000 TOWN CENTER
TWENTY-SECOND FLOOR
SOUTHFIELD MI 48075

OL

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SEP 06 2011

OFFICE OF PETITIONS

BROOKS KUSHMAN PC
1000 TOWN CENTER
TWENTY-SECOND FLOOR
SOUTHFIELD MI 48075

In re Patent No. 7,951,077 :
Issue Date: May 31, 2011 :
Application No. 11/182,995 : DECISION ON PETITION
Filed: July 15, 2005 :
Attorney Docket No. SPSC 0101 PUS :

This is a decision on the petition under 37 CFR 3.81(b), filed August 18, 2011.

The petition is **GRANTED.**

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

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

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

[1] See 37 CFR 3.81.

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

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

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

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

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

Cliff Congo
Petitions Attorney
Office of Petitions

[2] MPEP 307.

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AUG 25 2010

OFFICE OF PETITIONS

NALCO COMPANY
1601 W. DIEHL ROAD
NAPERVILLE IL 60563-1198

In re Application of :
Bert Simons :
Application No. 11/183,060 : DECISION ON PETITION
Filed: July 15, 2005 :
Attorney Docket No. **7833** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 9, 2010, to revive the above-identified application.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed September 14, 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 15, 2009.

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 an amendment, (2) the petition fee of $1,610, and (3) a proper statement of unintentional delay.

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

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

JoAnne Burke
Petitions Examiner
Office of Petitions

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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

JUN 23 2011

OFFICE OF PETITIONS

In re Patent No. 7542387 :
Issue Date: 06/02/2009 :
Application No. 11/183085 : ON PETITION
Filed: 07/15/2005 :
Attorney Docket No. 16869S-155800US :

This is a decision on the petition under 37 CFR 3.81(b) filed December 15, 2009.

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

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

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

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

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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AUG 16 2010

OFFICE OF PETITIONS

John Karl Buche
BUCHE & ASSOCIATES, P.C.
875 PROSPECT
SUITE 305
LA JOLLA CA 92037

In re Application of :
William Flusche :
Application No.: 11/183,094 : ON PETITION
Filed: July 18, 2005 :
Attorney Docket No: Flusche :

This is in response to the petition under 37 CFR 1.137(b) filed April 28, 2010.

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

On July 1, 2008, a "Notice Requiring Excess Claim Fees" (the "Notice") was mailed by the Office allowing a one-month period for reply. Extensions of time were available pursuant to 37 CFR 1.136(a). A proper response was not received within the allowable period, and the application became abandoned on August 2, 2008. A Notice of Abandonment was mailed on February 22, 2010.

The fees paid September 9, 2008, are noted.

The request for an extension of time within the second month, filed February 2, 2010, is noted, but cannot be granted as the request was made outside the maximum period for reply to the July 1, 2008, notice. The amount of $245.00 will be refunded, in due course.

This application is being forwarded to Technology Center, GAU 3637 for further processing.

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

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 05/18/11

TO SPE OF : ART UNIT 3621

SUBJECT : Request for Certificate of Correction for Appl. No.: 11183127 Patent No.: 7908226 B2

CofC mailroom date: 05/11/11

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

RoChaun Johnson
Certificates of Correction Branch
703-756-1580

Thank You For Your Assistance

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

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

Comments: _____

_____

_____

_____

_____ 3621
SPE **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110606

DATE : June 7, 2011

TO SPE OF : ART UNIT 2111

SUBJECT : Request for Certificate of Correction on Patent No.: RE41,494

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 requested changes to the claims correspond to the Examiner's Amendment which was a part of the Notice of Allowance of 25 February 2010.

SPE: /Mark Rinehart/ **Art Unit** 2111

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.
11/183,593	07/18/2005	Paul Szucs	282811US8X	9371

22850 7590 07/25/2011

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER	
DOAN, TRANG T	

ART UNIT	PAPER NUMBER
2431	

NOTIFICATION DATE	DELIVERY MODE
07/25/2011	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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JUN 22 2011

DIRECTOR OFFICE
TECHNOLOGY CENTER 2400

OBLON, SPIVAK, MCLELLAND MAIER & NEUSTADT, L.L.P
1940 DUKE STREET
ALEXANDRIA, VA 22314

In re Application of: SZUCS, Paul
Application No.: **11/183,593**
Filed: July 18, 2005
Docket No.: 282811US8X
Title: METHOD FOR OPERATING NETWORKS OF DEVICES

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

This is a decision on the petition filed on **June 29, 2011** under 37 CFR § 1.181(a)(3) requesting that the Examiner consider all references listed on the PTO-1449 filed with the Information Disclosure Statements (IDS) on April 12, 2011.

The petition is **DISMISSED AS MOOT**.

A review of the file of the instant application indicates that, on July 21, 2011, the Office considered each of the references listed on the PTO-1449 above mentioned and that applicant was informed of such via a PTO-90C communication. Since each of those references listed on the above mentioned IDS has already been considered, this petition is rendered moot.

Any inquiry regarding this decision should be directed the undersigned whose telephone number is (571) 272-3902. If attempts to reach the undersigned by telephone are unsuccessful, Kim Huynh, Quality Assurance Specialist, can be reached at (571) 272-4147.

/Beatriz Prieto/

Beatriz Prieto, Quality Assurance Specialist
Technology Center 2400
Network, Multiplexing, Cable and Security

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 11/13/11

TO SPE OF : ART UNIT 1648

SUBJECT : Request for Certificate of Correction for Appl. No.: 11183668 Patent No.: 8017137

CofC mailroom date: 11/03/11

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Note: Should the changes to claim 16 be approved?

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

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

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

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

Comments: _____

/Zachariah Lucas/ — 1648

SPE — **Art Unit**

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Young & Thompson
209 Madison Street
Suite 500
Alexandria, VA 22314

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MAR 28 2011

OFFICE OF PETITIONS

In re Application of :
Pierre Feugere :
Application No. 11/183,817 : DECISION ON PETITION
Filed: July 19, 2005 : TO WITHDRAW FROM
Attorney Docket No. 0579-1103 : RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR §§ 1.36(b) or 10.40 filed February 11, 2011.

It is noted that practitioner has not certified that he has (1) given reasonable notice to the client, prior to the expiration of the reply period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or duly authorized representative of the client papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond. The failure to do so may subject the practitioner to discipline. *See USPTO Form No. PTO/SB/83*[1].

It is further noted that practitioner has not provided a correspondence address for the intervening assignee[2] or first named singing inventor. Practitioner is reminded that the Office will no longer change the correspondence address to that of a new practitioner unless the Request is accompanied by a power of attorney to a new practitioner (*See* USPTO Form PTO/SB/82).

In view of the above, the request to withdraw is under 37 CFR §§ 1.36(b) or 10.40 **NOT APPROVED**.

---

[1] Petitioner should note USPTO Form Number PTO/SB/83 requires practitioner to "check each box below that is factually correct" and Warns that "If a box is left unchecked, the request will likely not be approved". (*See USPTO Form No. PTO/SB/83*).

[2] 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).

This application is scheduled to Issue on April 5, 2011; thus, any renewed request filed after April 5, 2011, will made of record in the above application and no further reconsideration of this request to withdraw will be undertaken.

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

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

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Liam McDowell
1061 Dalebrook Drive
Alexandria, VA 22308

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FAY SHARPE LLP
1228 Euclid Avenue, 5th Floor
The Halle Building
Cleveland OH 44115

MAILED
JUN 03 2011
OFFICE OF PETITIONS

In re Patent No. 7,812,522 :
Issue Date: October 12, 2010 :
Application No. 11/184,457 : DECISION ON PETITION
Filed: July 19, 2005 :
Attorney Docket No. SMBZ 201042US01 :

This is a decision on the Supplement To Petition And Request For Certificate Of Correction Of Patent For Applicants' Mistake To Correct The Name Of The Assignee (37 C.F.R. §1.323 and 37 C.F.R. §3.81(b)) filed October 27, 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 urges 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), 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 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. 7,812,522.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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JAN 10 2011

OFFICE OF PETITIONS

In re Application of	:	
Sang M. Han, et al.	:	
Application No. 11/184,540	:	DECISION ON PETITION
Filed: July 19, 2005	:	TO WITHDRAW
Attorney Docket No. 7201302	:	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 3, 2010.

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

A review of the file record indicates that the power of attorney to Schwegman, Lundberg & Woessner, P.A. has been revoked by the assignee of the patent application on June 24, 2009. 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: **Gonzales Patent Services**
4605 Congress Ave., NW
Albuquerque, NM 87114

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SEAGER, TUFTE & WICKHEM, LLC
1221 NICOLLET AVENUE
SUITE 800
MINNEAPOLIS, MN 55403-2420

In re Patent of Keegan et al.	:	DECISION ON REQUEST
Patent No. 7,651,496	:	FOR RECONSIDERATION OF
Issue Date: January 26, 2010	:	PATENT TERM ADJUSTMENT
Application No. 11/184,568	:	AND NOTICE OF INTENT TO
Filing Date: July 19, 2005	:	ISSUE CERTIFICATE OF
Attorney Docket No. 1291.1157101	:	CORRECTION

This is a decision on the "Request for Reconsideration of Patent Term Adjustment Recalculation in View of Wyeth" filed May 20, 2010.

Patentees assert the correct patent term adjustment is one thousand ninety-seven (1,097) days.

The request is **dismissed**.

The patent issued on January 26, 2010, with a patent term adjustment determination of 556 days.

Patentees filed a Request for Reconsideration of Patent Term Adjustment in View of *Wyeth* using the Office's PTO/SB/131 form on February 18, 2010.

The Office issued a decision on the February 18, 2010 request on April 21, 2010. The decision granted the request and stated a certificate of correction would be issued setting forth a patent term adjustment determination of 672 days unless a request for reconsideration of the decision was timely filed.

The 672-day determination was based on the following determinations:

1. The total period of delay under 37 C.F.R. § 1.703(a) ("A Delay") is 541 days,
2. The period of delay under 37 C.F.R. § 1.703(b) ("B Delay") is 210 days,
3. The number of days of overlap between the periods of A Delay and B Delay is 79 days, and
4. The period of delay under 37 C.F.R. § 1.704 ("Applicant Delay") is 0 days.

The instant petition was timely filed May 20, 2010.

A Delay

The total period of A Delay is 541 days and is not in dispute.

B Delay

Patentees contend the period of B Delay is 556 days.

Patentees include time consumed by appellate review as part of the period of B Delay. Patentees state,

> While Applicants did file an Appeal Brief, on December 9, 2008, as discussed above in (iii), the brief was not reviewed by the Board of Patent Appeals and Interferences because the Examiner allowed the application instead of writing an Examiner's Answer.

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) and 37 C.F.R. § 1.703(b)(4). 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 347 days, which is the number of days beginning October 6, 2008, the date the notice of appeal was filed, and ending September 17, 2009, the date the Office mailed a notice of allowance.

The period of B Delay is 209 day, which is 556 days reduced by 347 days consumed by appellate review.

Overlap Between the Periods of A Delay and B Delay

The request implicitly asserts the periods of A Delay and B Delay do not overlap.

The number of days of overlap between periods of A Delay and B Delay includes the number of days of A Delay that occurred during the time period beginning July 2, 2009, and ending January 26, 2010.

The total period of A Delay includes a 161-day increase in patent term adjustment under 37 C.F.R. § 1.703(a)(4) as a result of the Office mailing a Notice of Allowance on September 17, 2009, which was four months and 161 days after December 9, 2008, the date Patentees' filed an appeal brief.

The period of time beginning July 2, 2009, and ending January 26, 2010, and the period of time beginning September 17, 2009, and ending December 9, 2008, overlap by 78 days. Therefore, the periods of A Delay and B Delay overlap by 78 days.

Applicant Delay

The period of Applicant Delay is 0 days and is not in dispute.

Conclusion

The correct patent term adjustment is 672 days, which is the sum of 541 days of A Delay and 209 days of B Delay reduced by 78 days of overlap between the periods of A Delay and B Delay and reduced by 0 days of Applicant Delay.

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 Office acknowledges submission of the $200.00 fee set forth in 37 C.F.R. § 1.18(e). No additional fees are required.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Certificates of Correction Branch will issue a certificate of correction indicating the term of the above-identified patent is extended or adjusted by **six hundred seventy-two (672)** days.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO.	:	7,651,496 B2
APPLICATION NO.	:	11/184,568
DATED	:	January 26, 2010
INVENTOR(S)	:	Thomas E. Keegan et al.

DRAFT

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

On the Title page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 556 days.

Delete the phrase "by 556 days" and insert -- by 672 days--

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MAILED Paper No.

AUG 26 2011

OFFICE OF PETITIONS

QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO CA 92121

In re Patent No. 7,961,609	:	
Teague et al.	:	
Application No. 11/184,602	:	LETTER REGARDING
Issue Date: June 14, 2011	:	PATENT TERM ADJUSTMENT
Filed: July 18, 2005	:	
Atty Docket No. 040555	:	

This decision is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR § 1.705(d)," filed August 11, 2011, requesting that the patent term adjustment determination for the above-identified patent be changed from nine hundred and twenty-eight (928) days to one thousand, two hundred and one (1201) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand, two hundred and one (1201) days is **DISMISSED.**

BACKGROUND

On June 14, 2011, the above-identified application matured into US Patent No. 7,961,609 with a patent term adjustment of 928 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 $200.00 fee set forth in 37 CFR 1.18(e) will be charged to Deposit Account No. 17-0026 in due course, as authorized on the second page of this petition. No additional fees are required.

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

[1] Petition, page 2.

At issuance, Patentee was accorded 709 (1061 over three years - 352 that are excluded due to appellate review) days for B-delay, and the Office determined that the period of overlap totals 89 days. 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 702 days, with zero days of overlap. In other words, Patentee argues that the 89 days of overlap should not be deducted from the B-delay, as they fall on the same calendar days as the excluded period.

Patentee states no reason why B-delay should total 702 days instead of 709 days.

OPINION

A first notice of appeal was filed on May 14, 2009, and a non-final Office action was mailed on October 7, 2009. The 147 days of the over three year period consumed by appellate review, beginning on May 14, 2009 and ending on October 7, 2009, is not included in the B delay. See 35 U.S.C. § 154(b)(1)(B)(ii). Similarly, a second notice of appeal was filed on July 28, 2010, and a notice of allowance was mailed on February 17, 2011. The 205 days of the over three year period consumed by appellate review, beginning on July 28, 2010 and ending on February 17, 2011, is not included in the B delay. See 35 U.S.C. § 154(b)(1)(B)(ii).

An after-final amendment was filed on March 10, 2009, prior to the filing of the aforementioned first notice of appeal. The mailing of the aforementioned non-final Office action of October 7, 2009 was mailed four months and 89 days after the filing of the after-final amendment of March 10, 2009. This constitutes 89 days of examination delay, pursuant to 37 C.F.R. § 1.703(a)(2).

Patentee argues that the Office should not deduct the 89-day period of overlap, as the entire period of overlap occurs on the same calendar days as the excluded period.[2]

Patentee's argument has been considered, but not found persuasive. The Office holds that the 147-day period from May 14, 2009 to October 7, 2009 is excluded from the period of B-delay, and the 89-day period of A-delay from July 10, 2009 to

[2] Id.

October 7, 2009 overlaps with the period of B-delay. The Office further holds that it is proper to reduce the period of B delay by both the entire excluded period and the entire period of overlap, despite the fact that 89 days of the 147-day excluded period fall on the same calendar days as the overlapping period.

As such, the patent term adjustment is increased by 928 (499 days of examination delay plus 1061 "B-delay" minus the aforementioned excluded 352 days minus 89 days of overlap minus 191 days of Applicant delay) days, not 1201.

Conclusion

In view thereof, no adjustment to the patent term will be made. It follows that a certificate of correction is not required.

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

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

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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

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MOORE & VAN ALLEN PLLC
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Research Triangle Park NC 27709

MAILED

SEP 22 2010

OFFICE OF PETITIONS

In re Application of :
Balasingam Radhakrishnan, et al. :
Application No. 11/184,668 : DECISION GRANTING PETITION
Filed: July 19, 2005 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 014811-440.131 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, September 21, 2010 to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on August 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 Terri Johnson at (571) 272-2991.

This application is being referred to Technology Center AU 1654 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the information disclosure statement filed on July 7, 2010.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20120322

DATE : March 22, 2012

TO SPE OF : ART UNIT 1654

SUBJECT : Request for Certificate of Correction on Patent No.: 7875700

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

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-910
Palm location **7590** - Tel. No. 305-8201

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

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

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

☒ **Approved** **All** changes apply.

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

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

Comments:

SPE: /Cecilia Tsang/ **Art Unit** 1654

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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TROP, PRUNER & HU, P.C.
1616 S. VOSS ROAD, SUITE 750
HOUSTON, TX 77057-2631

Mail Date: 08/02/2010

Applicant	: Walid Ali	: DECISION ON REQUEST FOR
Patent Number	: 7653257	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/184,688	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/19/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **620** 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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MASSACHUSETTS GENERAL HOSPITAL
THE GENERAL HOSPITAL CORPORATION
PERKINS COLE LLP
700 13TH STREET, NW, SUITE 600
WASHINGTON DC 20005-3960

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AUG 01 2011

OFFICE OF PETITIONS

In re Application of	:	
Merrill et al.	:	
Application No. 11/184,803	:	DECISION ON PETITION
Filed: July 20, 2005	:	
Attorney Docket No. 00952-8120	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the 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 July 12, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal and fee of $540.00; (2) the petition fee of $1,620.00; and (3) a proper statement of unintentional delay.

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 the undersigned at (571) 272-7751.

This matter is being referred to Technology Center AU 1765 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

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MONTREAL QC H3B 1R1 CA CANADA

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APR 07 2011

OFFICE OF PETITIONS

In re Application of :
Wormald, Klassen, Estable :
Application No.: 11/184,845 : ON PETITION
Filing Date: July 20, 2005 :
Attorney Docket No. **05200204-174US** :

This is a decision on the petition under 37 CFR 1.183 to waive the requirements of 37 CFR 1.131, filed December 1, 2010.

The petition is **granted**.

Petitioner files the under 37 CFR 1.183 to waive the requirements of 37 CFR 1.131 because one of the joint inventors has constructively refused to sign the declaration under 37 CFR 1.131. Petitioner requests that the declaration under 37 CFR 1.131 be accepted without the signature of inventor Estable.

Relief can be granted, pursuant to 37 CFR 1.183, by the waiver or suspension of the requirements of 37 CFR 1.131 as to inventor Estable. 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 1.131(b)(1) declaration be signed by all the joint inventors.

The instant petition is accompanied by an appropriate showing that inventor Estable has constructively refused to execute the declaration under 37 CFR 1.131. Accordingly, the declaration of May 28, 2010, signed by inventors Wormald and Klassen, will be accepted as though it was signed by joint inventors Wormald, Klassen, and Estable as required by 37 CFR 1.131.

The fee for the petition under 37 CFR 1.183 is $400.00 as per 37 CFR 1.183 and 1.17(f). Deposit account 19-5113 will be charged an additional $400.00, accordingly.

The application file will be forwarded to Technology Center 2400, GAU 2451 for further processing.

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

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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WASHINGTON DC 20005

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DEC 12 2011

OFFICE OF PETITIONS

In re Application of :
BLACK, ANDREW :
Application No. 11/184,963 : DECISION ON PETITION
Filed: 07/20/2005 :
Attorney Docket No. 1637.1002 :

This is a decision on the petition under 37 CFR 1.181 (no fee), filed November 30, 2011, requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the final Office action mailed April 12, 2011, which set a three-month shortened statutory period for reply. In the absence of a timely filed reply, the application was held abandoned on July 13, 2011. A Notice of Abandonment was mailed on November 21, 2011.

Applicant asserts that the final Office action dated April 12, 2011, was not received. In support of the assertion, applicant submitted the Declaration of John Berry, Manager of Docketing Department, in which he explained the firm's procedures for docketing all incoming correspondence from the USPTO. Applicant submitted a copy of the docket record for this application where the non-received Office action would have been entered had it been received. Additionally, applicant provided a copy of a master docket report showing all replies docketed for a date three months from the mail date of the non-received Office action. The practitioner attested to the fact that a search of these records indicated that the final Office action was not received at the correspondence address of record.

A review of the written record indicates no irregularity in the mailing of the final 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 final Office action was not in fact received.

As stated in Section 711.03(c)(I)(A) of the Manual for Patent Examining Procedure:

> In Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of Delgar, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of Delgar is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133).
>
> To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.
>
> Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.
>
> A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.
>
> The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather

than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).

After reviewing the documents submitted on petition, the Office concludes that the showing of record is sufficient to warrant withdrawal of the holding of abandonment. Accordingly, applicant presented the required showing under 37 CFR 1.181.

The petition under 37 CFR 1.181 is **GRANTED**. The holding of abandonment is hereby withdrawn and the application is returned to pending status.

Technology Center Art Unit 3714 has been advised of this decision. The matter is being referred to the Technology Center's technical support staff for re-mailing of the final Office action of April 12, 2011. The three-month shortened statutory period to reply to the final Office action will be set to run from the re-mailing date of the Office action.

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

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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PATENT DOCKETING 39/361
1211 AVENUE OF THE AMERICAS
NEW YORK NY 10036-8704

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FEB 15 2011
OFFICE OF PETITIONS

In re Application of :
Ricordi : DECISION ON APPLICATION
Application No.: 11/185,011 : FOR PATENT TERM ADJUSTMENT
Filed: July 20, 2005 :
Attorney Docket No. 104957-0002-101 :

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT", filed December 15, 2010, which is being treated under 37 CFR 1.705(b). Applicants submit that the correct patent term adjustment to be indicated on the patent is one thousand, sixteen (1016) days, not two hundred and thirty-four (234) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction, in part, on the basis that the Office will take in excess of three years to issue this patent.

Relative to the any assertion that the Office will take in excess of 3 years of the filing date to issue this patent, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

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

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the

initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

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

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

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

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

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

It is further noted that a Request for Continued Examination (RCE) was filed in this application on July 20, 2009.

To the extent that applicants otherwise requests reconsideration of the patent term adjustment at the time of the mailing of the notice of allowance, the application for patent term adjustment is **GRANTED to the extent indicated herein**.

The Office has updated the PALM and PAIR screens to reflect that the Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is one hundred and thirty-eight (138) days. A copy of the updated PALM screen, showing the corrected determination, is enclosed.

A review of the application history and of applicant's statement reveals that on October 26, 2009, a non-final Office action was mailed, to which applicants responded on February 25, 2010. On March 31, 2010, applicant filed an Information Disclosure Statement (IDS). 37 CFR 1.704(c)(8) provides that:

> (c) Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:
>
> (8) Submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the initial reply was filed and ending on the date the supplemental reply or other such paper was filed.

The record does not support a conclusion that the Examiner expressly requested the filing of the IDS. However, further review of the Information Disclosure Statement filed March 31,

2010, revealed a proper statement under 37 CFR 1.704(d).[2] Accordingly, pursuant to 37 CFR 1.704(c)(8), the period of reduction of 34 days will be removed.

In view thereof, the determination of the patent term adjustment at the time of the mailing of the notice of allowance is one hundred thirty-eight (138) days (338 days of Office delay - 200 days of applicant delay).

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

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.

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[2] 37 CFR 1.704(d) provides that:

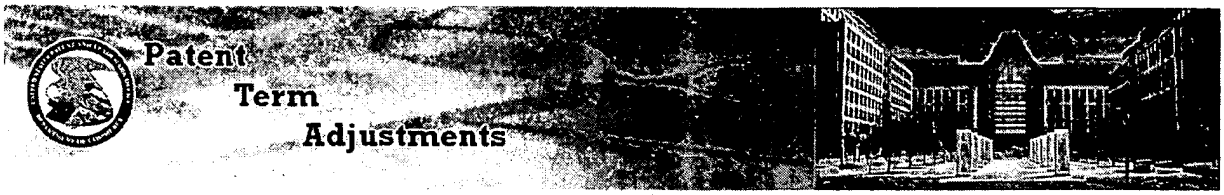
> (d) A paper containing only an information disclosure statement in compliance with §§ 1.97 and 1.98 will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under paragraphs (c)(6), (c)(8), (c)(9), or (c)(10) of this section 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.

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

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PALM screen



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

Application Number*: 11185011 Search | Explanation of PTA Calculation | Explanation of PTE Calculation

PTA Calculations for Application: 11185011

Application Filing Date	07/20/2005	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	338
A Delays	338	PTO Manual Adjustment	34
B Delays	0	Applicant Delay (APPL)	234
C Delays	0	Total PTA (days)	138

* - 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	02/10/2011		P028	Adjustment of PTA Calculation by PTO	34		0
76	09/22/2010		MN/=.	Mail Notice of Allowance			0
75	09/21/2010		IREV	Issue Revision Completed			0
74	09/21/2010		DVER	Document Verification			0
73	09/21/2010		N/=.	Notice of Allowance Data Verification Completed			0
72	09/21/2010		DOCK	Case Docketed to Examiner in GAU			0
71	09/17/2010		EX.A	Examiner's Amendment Communication			0
70	09/17/2010		CNTA	Notice of Allowability			0
66	09/15/2010		FWDX	Date Forwarded to Examiner			0
65	09/14/2010		A.NE	Amendment after Final Rejection			0
64	08/26/2010		MEXIN	Mail Examiner Interview Summary (PTOL - 413)			0
63	08/24/2010		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
62	06/14/2010		MCTFR	Mail Final Rejection (PTOL - 326)			0
61	06/07/2010		CTFR	Final Rejection			0
60	03/31/2010		IDSC	Information Disclosure Statement considered			0
59	03/31/2010	02/25/2010	EIDS.	Electronic Information Disclosure Statement		34	56
58	03/31/2010		WIDS	Information Disclosure Statement (IDS) Filed			0
57	03/19/2010		FWDX	Date Forwarded to Examiner			0
56	02/25/2010	01/26/2010	A...	Response after Non-Final Action		30	54
55	02/25/2010		XT/G	Request for Extension of Time - Granted			0
54	10/26/2009		MCTNF	Mail Non-Final Rejection			0
53	10/26/2009		CTNF	Non-Final Rejection			0
51	08/11/2009		FWDX	Date Forwarded to Examiner			0
49	08/11/2009		FWDX	Date Forwarded to Examiner			0
47	08/11/2009		ABN9	Disposal for a RCE / CPA / R129			0
50	07/20/2009		AMPR	RCE- AF Processed			0
48	07/20/2009	05/21/2009	RCEX	Request for Continued Examination (RCE)			39
45	07/20/2009		BRCE	Workflow - Request for RCE - Begin			0
52	07/01/2009		IDSC	Information Disclosure Statement considered			0
46	07/01/2009		M844	Information Disclosure Statement (IDS) Filed			0
44	07/01/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
43	06/01/2009		MCTAV	Mail Advisory Action (PTOL - 303)			0
42	05/26/2009		CTAV	Advisory Action (PTOL-303)			0
41	05/22/2009		FWDX	Date Forwarded to Examiner			0
40	05/21/2009		AP/A	Amendment/Argument after Notice of Appeal			0
39	05/21/2009	02/21/2009	N/AP	Notice of Appeal Filed		89	37
38	05/21/2009		XT/G	Request for Extension of Time - Granted			0
37	11/21/2008		MCTFR	Mail Final Rejection (PTOL - 326)			0
36	11/20/2008		CTFR	Final Rejection			0
35	09/22/2008		FWDX	Date Forwarded to Examiner			0
34	08/08/2008	05/21/2008	A...	Response after Non-Final Action		79	32
33	08/08/2008		XT/G	Request for Extension of Time - Granted			0
32	02/21/2008		MCTNF	Mail Non-Final Rejection			0
31	02/19/2008		CTNF	Non-Final Rejection			0
28	12/14/2007		TI1050	Transfer Inquiry to GAU			0
27	12/11/2007		FWDX	Date Forwarded to Examiner			0
26	11/26/2007	11/24/2007	ELC.	Response to Election / Restriction Filed		2	24
25	11/26/2007		XT/G	Request for Extension of Time - Granted			0
24	08/24/2007	09/20/2006	MCTRS	Mail Restriction Requirement	338		-1
23	08/20/2007		CTRS	Requirement for Restriction / Election			0
22	04/10/2007		C.AD	Correspondence Address Change			0
21	04/10/2007		PA..	Change in Power of Attorney (May Include Associate POA)			0
20	11/20/2006		DOCK	Case Docketed to Examiner in GAU			0
19	11/14/2006		TI1050	Transfer Inquiry to GAU			0
18	10/13/2006		DOCK	Case Docketed to Examiner in GAU			0

30	01/11/2006	IDSC	Information Disclosure Statement considered	0
17.7	01/11/2006	M844	Information Disclosure Statement (IDS) Filed	0
17	01/11/2006	WIDS	Information Disclosure Statement (IDS) Filed	0
16	01/11/2006	A.PE	Preliminary Amendment	0
15	10/02/2005	TSSCOMP	IFW TSS Processing by Tech Center Complete	0
12	09/02/2005	WROIPE	Application Return from OIPE	0
11	09/02/2005	COMP	Application Is Now Complete	0
10	09/02/2005	ROIPE	Application Return TO OIPE	0
9	09/02/2005	OIPE	Application Dispatched from OIPE	0
8	09/02/2005	COMP	Application Is Now Complete	0
29	08/25/2005	IDSC	Information Disclosure Statement considered	0
14	08/25/2005	RCAP	Reference capture on IDS	0
13.7	08/25/2005	M844	Information Disclosure Statement (IDS) Filed	0
13	08/25/2005	WIDS	Information Disclosure Statement (IDS) Filed	0
7	08/25/2005	FLFEE	Payment of additional filing fee/Preexam	0
6	08/25/2005	OATHDECL	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic	0
5	08/08/2005	INCD	Notice Mailed--Application Incomplete--Filing Date Assigned	0
3	08/03/2005	L194	Cleared by OIPE CSR	0
2	07/30/2005	SCAN	IFW Scan & PACR Auto Security Review	0
1	07/20/2005	IEXX	Initial Exam Team nn	0

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

MAILED
JUN 03 2011
OFFICE OF PETITIONS

In re Patent No. 7,910,359	:	
Ricordi	:	DECISION DISMISSING
Application No. 11/185,011	:	REQUEST FOR
Issue Date: March 22, 2011	:	RECONSIDERATION OF
Filed: July 20, 2005	:	PATENT TERM ADJUSTMENT
Attorney Docket No.	:	UNDER 37 CFR 1.705
104957-0002-101	:	

This is in response to the "Request for Reconsideration of Patent Term Adjustment", which is properly treated as a petition under 37 CFR 1.705(d)" filed May 18, 2011. Patentee requests that the determination of patent term adjustment be corrected from four-hundred and thirty (430) days to four hundred and forty-two (420) days.

The request for reconsideration of patent term adjustment is **DISMISSED** with respect to making any change in the patent term adjustment determination under 35 U.S.C. § 154(b) of 430 days.

This application was filed on July 20, 2005. On March 22, 2011, the application matured into U.S. Patent No. 7,910,359 with a revised patent term adjustment of 430 days. The instant petition under 37 CFR 1.705(d) was filed on May 18, 2011, within two months of the issuance of the patent.

Patentees dispute the reduction of 12 days entered after the Notice of Allowance and Issue Fee Due was mailed on September 22, 2010. The reduction to the patent term adjustment of 12 days was entered for the filing of an "Amendment under 37 CFR 1.312" on October 22, 2010. Specifically, patentee states:

> Applicants filed the October 22, 2010 Amendment under 37 CFR 1.312 to correct obvious clerical errors introduced in the Examiner's Amendment attached to the September 22, 2010 Notice of Allowability.

> As stated on pp. 12-13 of the Amendment under 37 CFR 1.312, pursuant to MPEP 2732, a request to correct an error or omission in the Notice of Allowance or Notice of Allowability is not considered a failure to engage in reasonable efforts to conclude processing or examination of an application. Accordingly, the filing of the Amendment under 37 CFR 1.312 should not result in any reduction of patent term adjustment. The 12-day PTA reduction is clearly erroneous.

Excerpt taken from "Request for Reconsideration of Patent Term Adjustment", filed May 18, 2011, pgs. 4-5.

Patentee's argument as to the reduction of the patent term adjustment of 12 days has been considered and is not persuasive. A review of the application reveals that a reduction of the patent term adjustment of 12 days was entered for the filing of the "Amendment under 37 CFR 1.312" on October 22, 2010, after the mailing of the Notice of Allowance and Issue Fee Due was mailed on September 22, 2010. Although patentee states in the amendment under 37 CFR 1.312 that the amendment is being filed to correct clerical errors found in the Examiner's Amendment if September 22, 2010, applicants chose to "correct" the clerical errors in the form of a amendment under 37 CFR 1.312. Such a paper is not identified as one of the papers[1] the filing of which the Director has specifically deemed not be a "failure to engage in reasonable efforts" within the meaning of 37 CFR 1.704(c)(10)[2]. It is also note that the 37 CFR 1.404(c)(10) makes

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

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

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

no distinction relative to the purpose for which the amendment under 37 CFR 1.312 was filed. Rather, 37 CFR 1.704(c)(10) simply states that the filing of an amendment under 37 CFR 1.312 after the mailing of a Notice of Allowance will result in the reduction to the patent term adjustment. Further, it is noted that MPEP 2732 states that:

> 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).

The paper filed October 22, 2010, is not simply a "response to examiner's reason for allowance or a request to correct an error or omission in the Notice of Allowance". It was filed as an amendment under 37 CFR 1.312 with amendments to the claims of the application. The examiner responded to the amendment under 37 CFR 1.312 on November 2, 2010, with a "Response to Rule 312 Communication. The reduction to patent term adjustment of 12 days pursuant to 37 CFR 1.704(c)(10) is proper and will not be removed.

In view thereof, the Office affirms that the revised determination of patent term adjustment at the time of the issuance of the patent is 430 days.

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

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

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

(ii) Four months...

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

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

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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MICROSOFT CORPORATION
ONE MICROSOFT WAY
REDMOND WA 98052

MAILED
JUL 06 2011
OFFICE OF PETITIONS

In re Application of	:	
Anil Kumar Nori, et al.	:	
Application No. 11/185,155	:	DECISION ON PETITION
Filed: July 20, 2005	:	
Attorney Docket No. 311240.02	:	

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

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before March 22, 2011, as required by the Notice of Allowance and Fee(s) Due, mailed December 22, 2010. Accordingly, the date of abandonment of this application is March 23, 2011. The Notice of Abandonment was mailed April 8, 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 $,1620; and (3) a proper statement of unintentional delay.

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

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

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

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

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

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

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

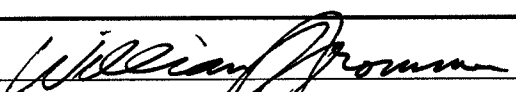
Attorney Docket Number: 450100-05654	
Application Number: 11/185,182	Filing Date (or 371(b) or (f) Date): July 20. 2005
Patent Number: 7,657,430	Issue Date: February 2, 2010
First Named Inventor: Hiroaki Ogawa	
Title: SPEECH PROCESSING, APPARATUS, SPEECH PROCESSING METHOD, PROGRAM, AND RECORDING MEDIUM	

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

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

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

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

Signature 	Date August 2, 2010
Name (Print/Typed) William S. Frommer	Registration Number 25,506

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

☑ *Total of 1 forms are submitted.

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

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

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United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
www.uspto.gov

William S. Frommer, Esq.
FROMMER LAWRENCE & HAUG LLP
745 Fifth Avenue
New York, NY 10151

Mail Date: 08/12/2010

Applicant	: Hiroaki Ogawa	: DECISION ON REQUEST FOR
Patent Number	: 7657430	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/185,182	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/20/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **481** 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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Pabst Patent Group LLP
1545 PEACHTREE STREET NE
SUITE 320
ATLANTA GA 30309

MAILED

AUG 23 2010

OFFICE OF PETITIONS

In re Patent No. 7,727,528	:	
Adcock, et al.	:	DECISION DISMISSING
Application No. 11/185,335	:	REQUEST FOR
Issue Date: June 1, 2010	:	RECONSIDERATION OF
Filed: July 20, 2005	:	PATENT TERM ADJUSTMENT
Attorney Docket No.	:	UNDER 37 CFR 1.705
ADC 100	:	

This is in response to the "Request for Reconsideration of Patent Term Adjustment under 37 CFR 1.705(d)" filed July 21, 2010, which is properly treated under 37 C.F.R. § 1.705(d). Patentees requests that the determination of patent term adjustment be corrected from seven hundred and sixty-one (761) days to eight hundred twelve (812) days.

The request for reconsideration of patent term adjustment is **DISMISSED** with respect to making any change in the patent term adjustment determination under 35 U.S.C. § 154(b) of seven hundred and sixty-one (761) days.

This application was filed on July 20, 2005. On June 1, 2010, the application matured into U.S. Patent No. 7,727,528 with a revised patent term adjustment of 761 days. The instant petition under 37 CFR 1.705(d) was filed on July 21, 2010, within two months of the issuance of the patent.

Patentees dispute the reduction of 51 days entered after the Notice of Allowance and Issue Fee Due was mailed on January 26, 2010. As to the reduction of 51 days, patentees state that:

> Applicant does disputes 51 days of Applicant delay under CFR 1.702(c)(1)) for the period beginning on April 12, 2010, and ending June 1, 2010. On April 12, 2010, Applicant filed a Power of Attorney and Second Request for

> Corrected Filing Receipt...These documents were entered in the Patent Term Adjustment History as "Miscellaneous Incoming Letter". Applicant refers to 1247 Off. Gaz. Pat. Office 111 (June 26, 2001) which provides clarification of 37 CFR (c)(10) for Reduction of Patent Term Adjustment for Certain Types of Papers Filed After a Notice of Allowance has been Mailed. Power of Attorney is specifically recited as an example of papers that do not cause substantial interference and delay in the patent issue process, and are therefore not considered a "failure to engage in reasonable efforts" to conclude processing or examination of an application.
>
> On April 12, 2010, Applicant also filed a Second Request for Corrected Filing Receipt. A first request for a corrected filing receipt was filed on November 10,2 005, well in advance of the Notice of Allowance mailed January 26, 2010, but was never acted on by the Patent Office. Applicant showed diligence to correct the mistake early during prosecution and the second request was only necessitated by the Patent Office's failure to respond. For at least these reasons, filing a Power of Attorney and a Second Request for Corrected Filing Receipt can not constitute failure on the part of the Applicant to engage in reasonable efforts to conclude prosecution under 37 CFR 1.704(c)(10).

Excerpt from "Request for Reconsideration of Patent Term Adjustment under 37 CFR 1.705(d)" filed July 2, 2010, *pgs. 2-3.*

Patentee's argument as to the reduction of the patent term adjustment of 51 days has been considered and is not persuasive. A review of the application reveals that a reduction of the patent term adjustment of 51 days was entered for the filing of the "Request for Corrected Filing Receipt" and Supplemental Application Data Sheet, on April 12, 2010, after the mailing of the Notice of Allowance and Issue Fee Due was mailed on June 30, 2009. Such a paper is not identified as one of the papers[1] the

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

> ... the Office is publishing this notice to provide guidance in interpreting the provisions of 37 CFR 1.704(c)(10) to clarify that submission of certain papers after a "Notice of Allowance," which do not

filing of which the Director has specifically deemed not be a "failure to engage in reasonable efforts" within the meaning of 37 CFR 1.704(c)(10)[2]. Further, the fact that patentees first filed these papers on November 10, 2005, received no reply from the Office, and then filed copies of the same after the Notice of Allowance was mailed, has no bearing on whether the filing of "Request for Corrected Filing Receipt" and Supplemental Application Data Sheet interfered and delayed the patent issue process. In fact, the filing of the supplemental ADS after the mailing of the Notice of Allowance is considered a failure to engage in reasonable efforts to conclude processing of the application. It is further noted that patentee had a period from 2005, until January 2010-- when the Notice of Allowance was mailed–in which to ensure that the changes requested were made of record in the application without subjecting the application to a reduction to the patent term adjustment. Thus, reduction

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

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

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

to patent term adjustment of 51 days pursuant to 37 CFR 1.704(c)(10) is proper and will not be removed.

In view thereof, the Office affirms that the revised determination of patent term adjustment at the time of the issuance of the patent is 761 days.

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

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

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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FOLEY HOAG, LLP
PATENT GROUP, WORLD TRADE CENTER WEST
155 SEAPORT BLVD
BOSTON, MA 02110

MAILED

JUN 23 2011

OFFICE OF PETITIONS

In re Application of	:	
KROM, et al	:	
Application No. 11/185,449	:	DECISION ON PETITION
Filed: July 19, 2005	:	TO WITHDRAW
Attorney Docket No. BMX-008.01	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 6, 2011.

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

A review of the file record indicates that the power of attorney to Janine S. Ladislaw, has been revoked by the assignee of the patent application on June 14, 2011. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

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A. I. RAJASINGHAM
6024 BRADLEY BLVD.
BETHESDA MD 20817

FEB 08 2011

In re Application of
RAJASINGHAM, ARJUNA INDRAESWARAN :
Application No.: 11/185,784 : DECISION ON
Filing or 371(c) Date: July 21, 2005 : PETITION
Attorney Docket Number: :

This is a decision on the Petition To Withdraw Holding Of Abandonment, received in the United States Patent & Trademark (USPTO) on October 18, 2010.

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 June 24, 2010. The Notice of Abandonment was mailed October 12, 2010.

The Office acknowledges receipt of Part B – Fee(s) Transmittal on October 12, 2010. However, on September 24, 2010 credit card was declined for approval of payment.

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

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A. I. RAJASINGHAM
6024 BRADLEY BLVD.
BETHESDA MD 20817

MAILED
FEB 11 2011
OFFICE OF PETITIONS

In re Application of :
Rajasingham :
Application No. 11/185,784 : DECISION
Filed/Deposited: 23 July, 2005 :
Attorney Docket No. (None) :

This is a decision on the papers considered as a petition filed on 18 October, 2010, considered as a petition pursuant to 37 C.F.R. §1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition pursuant to 37 C.F.R. §1.181 is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition pursuant to 37 C.F.R. §1.181."

This is **not** a final agency action within the meaning of 5 U.S.C. §704.

As to the Request to Withdraw
the Holding of Abandonment

Petitioner is directed to the Commentary at MPEP §711.03(c)(I) for guidance as to the proper showing requirements for relief pursuant to 37 C.F.R. §1.181.

Petitioner appears not to comply with the guidance in the Commentary at MPEP §711.03(c)(I)—as discussed below, Petitioner has failed to satisfy the showing requirements set forth there. Petitioner may find it beneficial to review that material and move step-wise through that guidance in the effort to satisfy the showing requirements (statements and supporting documentation).

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the Notice of Allowance/Allowability and Fees Due mailed on 24 June, 2010, with reply due under a non-extendable deadline on or before 24 September, 2010.

The application went abandoned by operation of law after midnight 24 September, 2010.

The Office mailed the Notice of Abandonment on 12 October, 2010.

On 18 October, 2010, Petitioner filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.181 and averment therein to the effect that for reasons unknown to him the financial institution through which his credit card charge was to be made denied/refused the charges. The Office cannot be and is not responsible for errors and/or misunderstanding between applicants or practitioners and their credit card companies/institutions. And the error in the failure to timely reply was not that of the Office. Petitioner may wish to address the matter with the card-issuing institution. Thus, as to the papers considered as the instant petition, Petitioner failed to provide the documentation and failed to make the statements under the Rule—and so failed to follow and satisfy the guidance in the Commentary at MPEP §711.03(c)(I).

Thus, Petitioner has not completed the showing as discussed below in the citation from the Manual of Patent Examining Procedure (MPEP).

With regard to Petitioner's request to withdraw the holding of abandonment pursuant to 37 C.F.R. §1.181, the guidance in the Commentary at MPEP §711.03(c)(I) provides in pertinent part 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]

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A Petitioner unable to comply with and/or otherwise satisfy these requirements may wish to revive the application: Petitioner may wish to properly file a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay under 37 C.F.R. §1.137(b). (See: http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c)

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act

[1] *See*: MPEP §711.03(c) (I)(B).

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 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

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[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.))

> 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 not to have made the showing required.

CONCLUSION

Accordingly, the petition pursuant to 37 C.F.R. §1.181 is **dismissed**.

ALTERNATIVE VENUE

Should Petitioner wish to revive the application, Petitioner may wish to properly file a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay pursuant to 37 C.F.R. §1.137(b). (See:
http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c)

A petition to revive on the grounds of unintentional delay must be filed promptly and such petition must be accompanied by the reply, the petition fee, a terminal disclaimer and fee where appropriate and a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional." (The statement is in the form available online.)
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

[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).

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

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

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[6]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

A. I. RAJASINGHAM
6024 BRADLEY BLVD.
BETHESDA MD 20817

MAILED
APR 08 2011
OFFICE OF PETITIONS

In re Application of :
Rajasingham :
Application No. 11/185,784 : DECISION
Filed/Deposited: 23 July, 2005 :
Attorney Docket No. (None) :

This is a decision on the papers considered as a petition filed on 24 March, 2011, considered as a petition pursuant to 37 C.F.R. §1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition pursuant to 37 C.F.R. §1.181 is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition pursuant to 37 C.F.R. §1.181."

This is **not** a final agency action within the meaning of 5 U.S.C. §704.

As to the Request to Withdraw
the Holding of Abandonment

Petitioner is directed to the Commentary at MPEP §711.03(c)(I) for guidance as to the proper showing requirements for relief pursuant to 37 C.F.R. §1.181.

Petitioner appears not to comply with the guidance in the Commentary at MPEP §711.03(c)(I)—as discussed below, Petitioner has failed to satisfy the showing requirements set forth there. Petitioner may find it beneficial to review that material and move step-wise through that guidance in the effort to satisfy the showing requirements (statements and supporting documentation).

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the Notice of Allowance/Allowability and Fees Due mailed on 24 June, 2010, with reply due under a non-extendable deadline on or before 24 September, 2010.

The application went abandoned by operation of law after midnight 24 September, 2010.

The Office mailed the Notice of Abandonment on 12 October, 2010.

On 18 October, 2010, Petitioner filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.181 and averment therein to the effect that for reasons unknown to him the financial institution through which his credit card charge was to be made denied/refused the charges. The Office is not and cannot be responsible for errors and/or misunderstanding between applicants or practitioners and their credit card companies/institutions. The error in the failure to timely reply was not that of the Office. (Petitioner, if he wishes, may address the matter with the card-issuing institution.) Thus, as to the papers considered as the instant petition, Petitioner failed to provide the documentation and failed to make the statements under the Rule—and so failed to follow and satisfy the guidance in the Commentary at MPEP §711.03(c)(I). The petition was dismissed on 11 February, 2011.

On 24 March, 2011, Petitioner filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.181 and an averment therein that the Office failed to "abide by the protocols of clearing and settling [credit card] transactions"[1] when his credit card company claimed to have sought "additional information"[2] from the Office. Notably, the company provided absolutely no documentary showing to that effect—only its unsupported statement—and Petitioner himself did no more. In any case Petitioner failed to make and appeared unable to make the showing required under the Rule and pursuant to the guidance in the Commentary at MPEP §711.03(c)(I). Petitioner's only apparent vehicle for relief may be a petition pursuant to the regulations at 37 C.R.R. §1.137(b)—with a petition, petition fee, reply (here: in the form of funds due), and statement of unintentional delay (set forth in the petition form). Petitioner is cautioned that failure to promptly and properly file such a petition might be *indicia* of delay that is other than unintentional.

Thus, Petitioner has not completed the showing as discussed below in the citation from the Manual of Patent Examining Procedure (MPEP).

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[1] One-page petition of 24 March, 2011.

[2] One-page letter from Bank of America, dated 18 February, 2011, submitted on 24 March, 2011.

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:

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37 C.F.R. §1.10(c) through §1.10(e) and §1.10(g) set forth procedures for petitioning the Director of the USPTO to accord a filing date to correspondence as of the date of deposit of the correspondence as "Express Mail." A petition to withdraw the holding of abandonment relying upon a timely reply placed in "Express Mail" must include an appropriate petition under 37 C.F.R. §1.10(c), (d), (e), or (g) (see MPEP §513). When a paper is shown to have been mailed to the Office using the "Express Mail" procedures, the paper must be entered in PALM with the "Express Mail" date.

Similarly, applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides *prima facie* evidence that the reply was timely filed. See MPEP §503. For example, if the application has been held abandoned for failure to file a reply to a first Office action, and applicant has a postcard receipt showing that an amendment was timely filed in response to the Office action, then the holding of abandonment should be withdrawn upon the filing of a petition to withdraw the holding of abandonment. When the reply is shown to have been timely filed based on a postcard receipt, the reply must be entered into PALM using the date of receipt of the reply as shown on the post card receipt.

Where a certificate of mailing under 37 C.F.R. §1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 C.F.R. 1.8(b) and MPEP §512. As stated in 37 C.F.R. §1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is shown to have been timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 C.F.R. §1.8).

37 C.F.R. §1.8(b) also permits applicant to notify the Office of a previous mailing or transmission of correspondence and submit a statement under 37 C.F.R. §1.8(b)(3) accompanied by a duplicate copy of the correspondence when a reasonable amount of time (e.g., more than one month) has elapsed from the time of mailing or transmitting of the correspondence. Applicant does not have to wait until the application becomes

abandoned before notifying the Office of the previous mailing or transmission of the correspondence. Applicant should check the private Patent Application Information Retrieval (PAIR) system for the status of the correspondence before notifying the Office. See MPEP §512. [3]

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A Petitioner unable to comply with and/or otherwise satisfy these requirements may wish to revive the application: Petitioner may wish to properly file a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay under 37 C.F.R. §1.137(b). (See: http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c)

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (*see*: 37 C.F.R. §1.181(f)), and those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[4]

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.[5],[6]

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[3] *See*: MPEP §711.03(c) (I)(B).

[4] 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).

[5] 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).

[6] 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.

Moreover, the Office has set forth in the Commentary at MPEP §711.03(c)(I) the showing and timeliness requirements for a proper showing for relief under 37 C.F.R. §1.181 in these matters.

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[7]

Allegations as to the Request to Withdraw the Holding of Abandonment

The guidance in the Commentary at MPEP §711.03(c)(I) specifies the showing required and how it is to be made and supported.

Petitioner appears not to have made the showing required.

CONCLUSION

Accordingly, the petition pursuant to 37 C.F.R. §1.181 is **dismissed**.

ALTERNATIVE VENUE

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.))

[7] 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).

Should Petitioner wish to revive the application, Petitioner may wish to properly file a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay pursuant to 37 C.F.R. §1.137(b). (See: http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c)

A petition to revive on the grounds of unintentional delay must be filed promptly and such petition must be accompanied by the reply, the petition fee, a terminal disclaimer and fee where appropriate and a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional." (The statement is in the form available online.)
Further correspondence with respect to this matter should be addressed as follows:

By Mail:
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Commissioner for Patents
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Alexandria, VA 22313-1450

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

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

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[8]) 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

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[8] 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.

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

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

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

First named inventor: _____

Application No.: _____ Art Unit: _____

Filed: _____ Examiner: _____

Title:

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

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

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus any extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
(4) Statement that the entire delay was unintentional

1. Petition Fee

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

☐ Other than small entity-fee $ _____ (37 CFR 1.17(m))

2. Reply and/or fee

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

☐ has been filed previously on _____.

☐ is enclosed herewith.

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

☐ has been paid previously on _____.

☐ is enclosed herewith.

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

3. Terminal disclaimer with disclaimer fee

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

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

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

WARNING:

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

Signature	Date
Type or Printed name	Registration Number, If applicable
Address	Telephone Number
Address	

Enclosures:

☐ Fee Payment

☐ Reply

☐ Terminal Disclaimer Form

☐ Additional sheets containing statements establishing unintentional delay

☐ Other: _____

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

I hereby certify that this correspondence is being:

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

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

Date	Signature
	Typed or printed name of person signing certificate

Privacy Act Statement

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

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

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

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A. I. RAJASINGHAM
6024 BRADLEY BLVD.
BETHESDA MD 20817

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JUL 20 2011

OFFICE OF PETITIONS

In re Application of :
Rajasingham :
Application No. 11/185,784 : DECISION
Filed/Deposited: 23 July, 2005 :
Attorney Docket No. (None) :

This is a decision on the papers considered as a petition filed on 12 April, 2011, pursuant to 37 C.F.R. §1.137 for revival of an application abandoned due to unintentional delay.

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

As to the Allegations
of Unintentional Delay

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

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

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the Notice of Allowance/Allowability and Fees Due mailed on 24 June, 2010, with reply due under a non-extendable deadline on or before 24 September, 2010.

The application went abandoned by operation of law after midnight 24 September, 2010.

The Office mailed the Notice of Abandonment on 12 October, 2010.

On 18 October, 2010, Petitioner filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.181 and averment therein to the effect that for reasons unknown to him the financial institution through which his credit card charge was to be made denied/refused the charges. The Office is not and cannot be responsible for errors and/or misunderstanding between applicants or practitioners and their credit card companies/institutions. The error in the failure to timely reply was not that of the Office. (Petitioner was reminded that he might address the matter with the card-issuing institution.) Thus, as to the papers considered as the instant petition, Petitioner failed to provide the documentation and failed to make the statements under the Rule—and so failed to follow and satisfy the guidance in the Commentary at MPEP §711.03(c)(I). The petition was dismissed on 11 February, 2011.

On 24 March, 2011, Petitioner filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.181 and an averment therein that the Office failed to "abide by the protocols of clearing and settling [credit card] transactions"[1] when his credit card company claimed to have sought "additional information"[2] from the Office. Notably, the company provided absolutely no documentary showing to that effect—only its unsupported statement—and Petitioner himself did no more. In any case Petitioner failed to make and appeared unable to make the showing required under the Rule and pursuant to the guidance in the Commentary at MPEP §711.03(c)(I). The petition was dismissed on 8 April, 2011, at which time Petitioner was cautioned that failure to promptly and properly file such a petition might be *indicia* of delay that is other than unintentional.

On 12 April, 2011, Petitioner filed, *inter alia*, a petition (with fee) pursuant to 37 C.F.R. §1.137(b), and pointed to the reply in the form of fees due, and made the statement of unintentional delay.

Petitioners' attentions always are directed to the guidance in the Commentary at MPEP §711.03(c) as to the showing regarding unintentional delay and a petition pursuant to 37 C.F.R. §1.137(b).

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts

[1] One-page petition of 24 March, 2011.

[2] One-page letter from Bank of America, dated 18 February, 2011, submitted on 24 March, 2011.

of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[3]

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[4] The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

Unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and, by definition, are not intentional.[5]))

As to Allegations of Unintentional Delay

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

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

CONCLUSION

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

The instant application is released to the Publications Branch to be processed into a patent in due course.

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

[4] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.

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

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

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 Publications Branch in response to this decision. It is noted that all inquiries with regard to status need be directed to the Publications Branch where that change of status must be effected—that does not occur in the Office of Petitions.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[6]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

[6] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attdance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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SEP 28 2011

OFFICE OF PETITIONS

RADER FISHMAN & GRAUER PLLC
LION BUILDING
1233 20TH STREET N.W., SUITE 501
WASHINGTON DC 20036

In re Application of :
Kato :
Application No. 11/185,879 :
Filed: July 21, 2005 : DECISION ON PETITION
Attorney Docket No. SON-3389 : UNDER 37 C.F.R. § 1.137(B)
Title: ELECTROMAGNETISM :
SUPPRESSING MATERIAL, :
ELECTROMAGNETISM SUPPRESSING :
DEVICE, AND ELECTRONIC :
APPLIANCE :

This is a decision on the petition filed August 9, 2011, pursuant to 37 C.F.R. § 1.137(b), to revive the above-identified application.

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

The above-identified application became abandoned due to the May 17, 2011 decision on appeal of the Board for Patent Appeals and Interferences which introduced a new ground of rejection and set a two-month period for reopening prosecution or requesting a rehearing.[1] No response was received, and extensions of time under the provisions of 37 C.F.R. § 1.136(a) were not available. Accordingly, the above-identified application became abandoned on July 18, 2011. A notice of abandonment was mailed on August 4, 2011.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in 37 C.F.R.

1 See 37 C.F.R. § 41.50(b).

§ 1.17(m);

(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;

(4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

With this petition, Petitioner filed, *inter alia*, the petition fee, an amendment, and the proper statement of unintentional delay. As such, the first three requirements of Rule 1.137(b) have been met. The fourth requirement of Rule 1.137(b) is not applicable, as a terminal disclaimer is not required.[2]

The Technology Center will be notified of this decision, and jurisdiction over this application is transferred to the Technology Center, so that the application may receive further processing. The Technology Center's support staff will notify the Examiner of this decision, so that the amendment that was received on August 9, 2011 can be processed in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the revival has been acknowledged by the Technology Center in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status.** Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[3] All other inquiries concerning this application should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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2 See Rule 1.137(d).

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

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ALSTON & BIRD LLP
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101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE NC 28280-4000

MAILED
FEB 17 2011
OFFICE OF PETITIONS

In re Application of :
Dale B. Schenk, et al. :
Application No. 11/185,907 : ON PETITION
Filed: July 19, 2005 :
Attorney Docket No. : 057450 - 392848 :

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed April 5, 2010, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on July 6, 2010. A Notice of Abandonment was mailed on November 29, 2010. On December 13, 2010, the present petition was filed, along with an amendment and a petition for extension of time.

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

Extensions of time under 37 CFR 1.136 are available only if asked for prior to or within the response period set by statute. In no case, however, may an applicant respond later than the maximum time period set by statute. The extension of time submitted December 13, 2010 was filed when the provisions of 37 CFR 1.136 could no longer be used. Therefore, this application became abandoned when the unextended time for response had expired. Since no extension of time fees are due on a petition for revival, the $1,110 extension fees submitted after abandonment are being credited to counsel's deposit account.

The application is being referred to Technology Center AU 1649 for appropriate action by the Examiner in the normal course of business on the amendment filed December 13, 2010.

[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.

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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BANNER & WITCOFF LTD
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SUITE 1200
WASHINGTON DC 20005-4051

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AUG 16 2010

OFFICE OF PETITIONS

In re Application of :
Vare, et al. :
Application No. 11/185,975 : ON REQUEST FOR
Filed: July 21, 2005 : RECONSIDERATION OF
Attorney Docket Number: 006136.00009 : PATENT TERM ADJUSTMENT

This is a decision on the petition under 37 CFR 1.705(b), filed May 18, 2010. Applicants believe that they should be accorded an additional PTA of 391 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 addition, applicants also point out that they should have been assessed Applicant delay pursuant to 37 CFR 1.704(c)(8). Applicants filed a response to an Office action on December 7, 2009. Subsequently, applicants filed an IDS on February 9, 2010. As such, 64 days of Applicant delay should be accorded for the filing of this supplemental paper.

In view thereof, the correct determination of PTA prior to issuance is **eight hundred thirty-seven (837) days** (901 days of PTO delay, reduced by 64 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.

PTA Calculations for Application: 11/185975			
Application Filing Date:	07/21/2005	PTO Delay (PTO):	901
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	0
Post-Issue Petitions:	0	Total PTA (days):	837
PTO Delay Adjustment:	-64		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
58	08/14/2010	ADJUSTMENT OF PTA CALCULATION BY PTO		64	
50	03/08/2010	MAIL NOTICE OF ALLOWANCE			
49	02/03/2010	ISSUE REVISION COMPLETED			
48	02/03/2010	DOCUMENT VERIFICATION			
47	03/03/2010	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
46	03/01/2010	NOTICE OF ALLOWABILITY			
44	10/28/2009	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
43	02/09/2010	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
42	02/09/2010	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
41	10/28/2009	ELECTRONIC INFORMATION DISCLOSURE STATEMENT			
40	12/15/2009	DATE FORWARDED TO EXAMINER			
39	12/07/2009	RESPONSE AFTER NON-FINAL ACTION			
38	10/28/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
37	10/08/2009	CASE DOCKETED TO EXAMINER IN GAU			
36	10/05/2009	MAIL NON-FINAL REJECTION	15		31
35	10/01/2009	NON-FINAL REJECTION			
32	07/17/2009	DATE FORWARDED TO EXAMINER			
31	05/20/2009	RESPONSE AFTER NON-FINAL ACTION			
30	02/23/2009	MAIL NON-FINAL REJECTION	886		-1
29	02/17/2009	NON-FINAL REJECTION			
25	11/02/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			

24	07/21/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
20	12/03/2008	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
19	07/21/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
17	10/06/2008	CASE DOCKETED TO EXAMINER IN GAU			
16	04/10/2008	CASE DOCKETED TO EXAMINER IN GAU			
15	11/09/2007	CASE DOCKETED TO EXAMINER IN GAU			
14	10/17/2007	WITHDRAW FLAGGED FOR 5/25			
13	10/15/2007	FLAGGED FOR 5/25			
12	07/21/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
11	11/02/2006	REFERENCE CAPTURE ON IDS			
10.7	11/02/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
10	11/02/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
9	10/11/2005	APPLICATION DISPATCHED FROM OIPE			
8	10/11/2005	APPLICATION IS NOW COMPLETE			
7	09/30/2005	PAYMENT OF ADDITIONAL FILING FEE/PREEXAM			
6	09/30/2005	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
5	08/03/2005	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
4	08/01/2005	CLEARED BY OIPE CSR			
3	08/01/2005	CASE CLASSIFIED BY OIPE			
2	07/29/2005	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	07/21/2005	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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OFFICE OF PETITIONS

In re Application of :
Webster, et al. :
Application No. 11/186,260 : ON APPLICATION FOR
Filed: July 21, 2005 : PATENT TERM ADJUSTMENT
Atty Docket No. 088245-2511 :

This is in response to the "REQUEST FOR RECONSIDERATION PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)" filed October 31, 2011. Applicants submits that the patent term adjustment to be indicated on the patent is one thousand, one hundred and twenty-one (1,121) days, not five hundred and thirty-seven (537) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

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

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

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

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

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

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

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

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

It is further noted that a Request for Continued Examination (RCE) was first filed in this application on February 26, 2010.

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

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

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

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

Kenya McLaughlin
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

CYBERONICS, INC.
LEGAL DEPARTMENT, 6TH FLOOR
100 CYBERONICS BOULEVARD
HOUSTON, TX 77058

MAILED
MAR 22 2012
OFFICE OF PETITIONS

In re Application of :
Dana Michael Inman, et. al. :
Application No. 11/186,261 : DECISION ON PETITION
Filed: July 21, 2005 :
Attorney Docket No. 1000.072 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 8, 2012 and supplemented on February 13, 2012, to revive the above-identified application.

The application became abandoned for failure to file a timely reply to the Notice of Allowance and Fee(s) Due mailed October 7, 2011. A Notice of Abandonment was mailed on February 2, 2012.

The instant petition is not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Jaison C. John appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts.

Since the petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of $1,740 for payment of the issue fee and $300 for payment of the publication fee; (2) the petition fee of $1,860; and (3) a proper statement of unintentional delay[1]. Therefore, the petition is **GRANTED**.

It is noted that the correspondence address of record differs from the address given in the present petition. Therefore, 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 solely to the address of record unless otherwise instructed.

[1] 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.

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

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

/Andrea Smith/
Andrea Smith
Petitions Examiner
Office of Petitions

cc: Jaison C. John
Williams Morgan and Amerson, PC
10333 Richmond Ave. Suite 1100
Houston, TX 77042

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

DEC 14 2010

OFFICE OF PETITIONS

In re Application of
Gilbert Cabillic et al.
Application No. 11/186,271
Filed: July 21, 2005
Attorney Docket No.: TI-38564

ON PETITION

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

The petition is **GRANTED**.

This application became abandoned on January 20, 2010 for failure to timely file a reply to the Final Office action mailed October 19, 2009 which set a three (3) month shortened statutory period for reply. Accordingly, a Notice of Abandonment was mailed June 10, 2010.

The Notice of Appeal filed November 30, 2010, with the instant petition, in response to the Final Office Action, has been entered and made of record. Accordingly, the two (2)-month period for filing the Appeal Brief, accompanied by the fee required by law, runs from the date of this decision.

This matter is being referred to Technology Center 2193 for processing of the Notice of Appeal.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OTW Nov-11

THE LAW OFFICES OF ANDREW D. FORTNEY, PH.D., P.C.
215 W FALLBROOK AVE SUITE 203
FRESNO CA 93711

MAILED
NOV 29 2011
OFFICE OF PETITIONS
ON PETITION

In re Application of :
Seok-Su Kim :
Application Number: 11/186,396 :
Filing Date: 07/21/2005 :
Attorney Docket Number: OPP-GZ-2007-0253-US-00 :

This is a decision in reference to the petition under 37 CFR 1.181 filed on June 20, 2008, which is treated as a petition to withdraw the holding of abandonment. This is also a decision on the petition under 37 CFR 1.182 and 1.183, filed on June 17, 2010.

The Office apologizes for the delay in responding to the present petitions and regrets any inconvenience to petitioner.

The petition to withdraw the holding of abandonment is **DISMISSED**.

The petition under 37 CFR 1.182 and 1.183 is **DISMISSED as MOOT**.

This application was held abandoned on March 12, 2008, for failure to submit a proper response to the final Office action mailed on September 11, 2007, which set a three (3) month shortened statutory period for reply. On March 11, 2008, an amendment after final rejection and a three (3) month extension of time were filed. On April 14, 2008, an Advisory Action Before the Filing of an Appeal Brief was mailed, stating that the reply filed on March 11, 2008 fails to place the application in condition for allowance. Notice of Abandonment was mailed on June 9, 2008.

PETITION TO WITHDRAW HOLDING OF ABANDONMENT

Petitioner asserts that the finality of the Office action mailed on September 11, 2007, should be withdrawn because the Office action "was clearly an unambiguously characterized as a non-final Office Action on the Office Action Summary page." Petitioner further avers that the Office action was indicated in PAIR as a non-final Office action, and that petitioner was unaware until

counsel received the Advisory Action mailed on April 14, 2008, that the Office action mailed on September 11, 2007, was a final Office action.

The petition further states:

> 6. According to M.P.E.P. § 710.06, if an Office action contains an error that affects Applicant's ability to reply to the Office Action, Applicant can call the error to the attention of the Office. Although the period for reply will not be restarted when the error is brought to the attention of the Office after expiration of the period to reply, the Office may correct the error.

MPEP 710.06 states, in pertinent part:

> Where the citation of a reference is incorrect or an Office action contains some other error that affects applicant's ability to reply to the Office action and this error is called to the attention of the Office within 1 month of the mail date of the action, the Office will restart the previously set period for reply to run from the date the error is corrected, if requested to do so by applicant. If the error is brought to the attention of the Office within the period for reply set in the Office action but more than 1 month after the date of the Office action, the Office will set a new period for reply, if requested to do so by the applicant, to substantially equal the time remaining in the reply period.

Petitioner essentially argues that the holding of abandonment should be withdrawn. Petitioner's argument, however, is unavailing. Page 7 of the Office action mailed on September 11, 2007 states that applicant's amendment necessitated the new ground(s) of rejection presented in this Office action, and that, accordingly, **THIS ACTION IS MADE FINAL.** (emphasis in original)

The statements in the petition indicate that petitioner failed to review the entire Office action upon receipt. If petitioner, or petitioner's representative, had reviewed the entire Office action upon receipt, petitioner would have understood that the Office action of September 11, 2007 was a final Office action rather than a non-final Office action. An applicant is responsible for reviewing the entire Office action. While this situation is unfortunate, the failure to review the entire Office

action is an avoidable mistake on the part of applicant. Withdraw of the holding of abandonment is not warranted when applicant, or counsel for applicant, makes an avoidable mistake.

In this regard, petitioners should note that a proper response to a final rejection (such as the Office action of September 11, 2007) must be in the form of a Notice of Appeal, a Request for Continuing Examination (RCE) and submission under 37 CFR 1.114, or a continuing application. The filing of an amendment placing the application in condition for allowance is permitted under the rules, but entry of such an amendment is not a matter of right. As such, this application became abandoned for failure on the part of petitioner to file an appeal, a continuing application, or a request for continued examination accompanied by a submission.

The petition is **DISMISSED.**

The petitioners may want to consider filing a petition to revive under 37 C.F.R. 1.137(b), accompanied by a proper reply.

Any request for reconsideration must be filed within **TWO MONTHS** of the date of this decision. **This period may not be extended.**[1]

PETITION UNDER 37 CFR §§ 1.182-1.183

The petition under 37 CFR 1.182 and 1.183, filed on June 17, 2010, requests that the Office issue a decision on the petition under 37 CFR 1.181 filed on June 20, 2008. As this decision answers the petition of June 17, 2010, a petition under 37 CFR 1.182 and/or 1.183 to request a decision on the earlier-filed petition is unnecessary. The petitions will therefore be **dismissed as moot**.

The petition fee of $400.00 will be refunded to petitioner's credit card.

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

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

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[1] 37 CFR 1.181(f).

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

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

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

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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THE LAW OFFICES OF ANDREW D. FORTNEY, PH.D., P.C.
215 W FALLBROOK AVE SUITE 203
FRESNO CA 93711

MAILED

DEC 07 2011

OFFICE OF PETITIONS

In re Application of	:	
Seok-Su KIM	:	
Application No. 11/186,396	:	ON PETITION
Filed: July 21, 2005	:	
Attorney Docket No: OPP-GZ-2007-0253-US-00	:	

This is a *sua sponte* review of the petition decision mailed November 29, 2011.

The petition decision mailed November 29, 2011 is hereby **VACATED** for the reasons *infra*.

The petition filed, June 20, 2008, under 37 CFR 1.181 and the petition, filed June 17, 2010, under 37 CFR 1.182 and 1.183 required supervisory review of an examiner's Office action. As set forth in MPEP 1002.02(c)(3) decisions invoking the supervisory authority of the Director of the USPTO under 37 CFR 1.181 involving any *ex parte* action or requirement in a patent application by the examiner which is not subject to appeal and not otherwise provided for has been delegated to the Technology Center Director. Accordingly, the petition decision mailed November 29, 2011 was premature.

This application is being referred to the Director of Technology Center 2800 for decision on the petition filed, June 20, 2008, under 37 CFR 1.181 and the petition, filed June 17, 2010, under 37 CFR 1.182 and 1.183.

Telephone inquiries concerning this decision should be directed to the David Bucci at (571) 272-7099.

Anthony Knight
Director
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/186,396	07/21/2005	Seok-Su Kim	OPP-GZ-2007-0253-US-00	3533

36872 7590 01/06/2012

THE LAW OFFICES OF ANDREW D. FORTNEY, PH.D., P.C.
215 W FALLBROOK AVE SUITE 203
FRESNO, CA 93711

EXAMINER	
PAREKH, NITIN	

ART UNIT	PAPER NUMBER
2811	

MAIL DATE	DELIVERY MODE
01/06/2012	PAPER

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

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

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THE LAW OFFICES OF ANDREW D. FORTNEY, PH.D., P.C.
215 W FALLBROOK AVE SUITE 203
FRESNO, CA 93711

In re Application of Seok-Su Kim :
Application No.: 11/186,396 :
Filed: July 21, 2005 : **DECISION ON PETITION**
For: SEMICONDUCTOR DEVICE AND METHOD FOR :
MANUFACTURING THE SAME :

This is a decision on the petition under 37 C.F.R. 1.181 filed on June 20, 2010, requesting withdrawal of the finality of the Office Action of September 11, 2007 on the basis that it was characterized as a non-final Office Action on the Office Action Summary page. In addition, as evidenced by the Petitioner, PAIR indicated at the time of the filing the response that the action was non-final.

The petition to withdraw the finality of the Office Action of September 11, 2007 is **GRANTED**.

The abandonment is hereby **WITHDRAWN.**

The delay in rendering this decision is regretted by the USPTO. The amendment will be entered and an action on its merits rendered.

Inquiries concerning this decision should be directed to Lynne Gurley, Supervisory Patent Examiner, at (571) 272-1670.

John W. Cabeca, TC Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE

Patent No. 7,568,163
Patented: July 28, 2009

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:

W. Daniel Hillis and Bran Ferren

/Weilun Lo/
Weilun Lo
Supervisory Patent Examiner Art Unit 2179
Technology Center 2100

UNITED STATES PATENT AND TRADEMARK OFFICE

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GLENN PATENT GROUP
3475 EDISON WAY, SUITE L
MENLO PARK CA 94025

In re Patent No. 7,568,163 B2
Issue Date: July 28, 2009
Appl. No: 11/186,574
Filed: July 20, 2005
For: Correction of Inventorship

This is a decision on the petition filed May 21, 2009 and Sep. 17, 2009, to correct inventorship under 37 CFR 1.324.

The petition is **GRANTED**.

The patented filed is being forwarded to Certificate of Corrections Branch for issuance of a certificate naming only the actual inventor or inventors.

/Weilun Lo/
Weilun Lo
Supervisory Patent Examiner Art Unit 2179
Technology Center 2100

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DEC 08 2010

OFFICE OF PETITIONS

DUNLAP CODDING PC - CRISTAL
PO BOX 16370
OKLAHOMA CITY OK 73113

In re Application of :
Jacobsen, et al. :
Application No. 11/186,724 : ON PETITION
Filed: July 21, 2005 :
Attorney Docket No. 16561.101 :

This is a decision on the petition to revive under 37 CFR 1.137(b), filed September 10, 2010.

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

The above-identified application became abandoned for failure to timely file a reply in response to the final Office action mailed March 2, 2010. This Office action set a shortened statutory period for reply of three (3) months. No reply having been received, the application became abandoned on June 3, 2010. The Office mailed a Notice of Abandonment on September 9, 2010.

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. 12/879,598, filed September 10, 2010.

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. 12/879,598, filed September 10, 2010.

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

JUN 15 2011

OFFICE OF PETITIONS

In re Patent No. 7,083,771 :
Issue Date: August 1, 2006 :
Application No. 11/186,918 : ON PETITION
Filed: July 22, 2005 :
Attorney Docket No. 002018.00015 :

This is a decision on the petition under 37 CFR 1.378(c), filed April 7, 2011, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **DISMISSED**.

If reconsideration of this decision is desired, a petition for reconsideration under 37 CFR 1.378(e) must be filed within TWO (2) MONTHS from the mail date of this decision. No extension of this two month time limit can be granted under 37 CFR 1.136(a) or (b). This is not a final agency action within the meaning of 5 U.S.C. § 704.

Any petition for reconsideration of this decision must be accompanied by the petition fee of $400 as set forth in 37 CFR 1.17(f). The petition for reconsideration must include the lacking item(s) noted below, since, after a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Commissioner.

The above-identified patent issued August 1, 2006. The 3½ year maintenance fee was due August 1, 2010, and was payable from August 1, 2009 through February 1, 2010, or, with a surcharge, from February 2, 2010, through August 1, 2010. Since this maintenance fee was not timely paid, the patent expired at midnight on August 1, 2010.

The instant petition under 37 CFR 1.378(c) was filed April 7, 2011 and includes a declaration of Thomas Quantrille, President and CEO of Advanced Composite Materials, LLC ("ACM"), who, as the assignee, is the real party in interest in Patent No. 7,083,771 ("the '771 patent"). Banner & Witcoff, LTD. is the fee address for the '771 patent.

In the declaration Mr. Quantrille asserts Banner & Witcoff contacted him to inquire whether ACM intended to abandon the '771 patent by not paying the maintenance fee. Mr. Quantrille told Banner & Witcoff that he was surprised to have received the United States Patent and Trademark Office notice because ACM did not intend to abandon the '771 patent by not paying the maintenance fee and did not intend to delay payment of the maintenance fee. Banner & Witcoff told Mr. Quantrille they would look

into the matter. Banner & Witcoff then sent to Mr. Quantrille a copy of the e-mail message by which he had sent instructions for the maintenance fee due on the '771 patent. Mr. Quantrille had not followed the procedure and had not filled out the checklist form. Rather, Mr. Quantrille listed the matter (and one other) in the e-mail response to Banner & Witcoff. Mr. Quantrille entered "Abandon" after the '771 patent in the e-mail message (emphasis added).

Mr. Quantrille goes on to assert that he cannot explain why he did not follow the procedure, nor can he explain why he entered "Abandon" for the '771 patent. Mr. Quantrille asserts these were errors, that ACM intended to timely pay the maintenance fee, and that the delay in the payment of the maintenance fee was unintentional.

Petitioner has failed to carry his burden of proof to establish to the satisfaction of the Director that the delay in payment of the maintenance fee for the above-identified patent was unintentional within the meaning of 35 U.S.C. § 41(c) and 37 CFR 1.378(a).

35 U.S.C. § 41(c)(1) authorizes the Commissioner to accept a delayed maintenance fee payment "if the delay is shown to the satisfaction of the Commissioner to have been unintentional." 35 U.S.C. § 41(c)(1) does not require an affirmative finding that the delay was intentional, but only an explanation as to why the petitioner has failed to carry his or her burden to establish that the delay was unintentional. Cf. Commissariat A. L'Energie Atomique v. Watson, 274 F.2d 594, 597, 124 USPQ 126, 128 (D.C. Cir. 1960)(35 U.S.C. § 133 does not require the Commissioner to affirmatively find that the delay was avoidable, but only to explain why the applicant's petition was unavailing); see also In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pat. 1989) (petition under 37 CFR 1.137(b) denied because the applicant failed to carry the burden of proof to establish that the delay was unintentional).

The Commissioner may accept the payment of any maintenance fee required by 35 U.S.C. 41(b) which is made within twenty-four months after the six-month grace period if the delay is shown to the satisfaction of the Director to have been unintentional. See 35 U.S.C. § 41(c)(1);37 CFR 1.378(a). By the clear language of the statute (i.e., "may"), USPTO acceptance of a delayed maintenance fee is discretionary, and contingent upon a showing satisfactory to the Director. Id. While the USPTO has long held, with respect to revival of abandoned applications under the unintentional standard, the USPTO has held, since the inception of reinstatement of expired patents under the unintentional standard, that the entire delay in payment of the maintenance fee must have been unintentional. See 58 F.R. 44277 at 44278-79 (Aug. 20, 1993).

The "unavoidable" standard in 35 U.S.C. § 41(c)(1) is identical to the "unavoidable" standard in 35 U.S.C. § 133 for reviving an abandoned application because 35 U.S.C. § 41(c)(1) uses the same language (i.e., "unavoidable" delay). See Ray v. Lehman, 55 F.3d 606, 608-09, 34 USPQ2d 1786, 1787 (Fed. Cir. 1995)(citing In re Patent No. 4,409,763, 7 USPQ2d 1798, 1800 (Comm'r Pat. 1988), aff'd, Rydeen v. Quigg, 748 F. Supp. 900, 16 USPQ2d 1876 (D.D.C. 1990)). Likewise, the "unintentional" standard in 35 U.S.C. § 41(c)(1) is the same as the "unintentionally" standard in 35 U.S.C. § 41(a)(7) because 35 U.S.C. § 41(c)(1) uses the same word ("unintentional"), albeit in a different part of speech (i.e., the adjective "unintentional" rather than the adverb "unintentionally"). With regard to the "unintentional" delay standard:

> Where the applicant deliberately permits an application to become abandoned (e.g., due to a conclusion that the claims are unpatentable, that a rejection in an Office action cannot be overcome, or that the invention lacks sufficient commercial value to justify continued prosecution), the abandonment of such application is considered to be a deliberately chosen course of action, and the resulting delay cannot be considered as "unintentional" within the meaning of [37 CFR] 1.137(b). . . . An intentional delay resulting from a deliberate course of action chosen by the applicant is not affected by: (1) the correctness of the applicant's (or applicant's representative's) decision to abandon the application or not to seek or persist in seeking revival of the application; (2) the correctness or propriety of a rejection, or other objection, requirement, or decision by the Office; or (3) the discovery of new information or evidence, or other change in circumstances subsequent to the abandonment or decision not to seek or persist in seeking revival.

See Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53158-59 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 86 (October 21, 1997)(discussing the meaning of "unintentional" delay in the context of the revival of an abandoned application).

A delay caused by the deliberate decision not to take appropriate action within a statutorily prescribed period does not constitute an unintentional delay within the meaning of 35 U.S.C. § 41. In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pat. 1989). Such intentional action or inaction precludes a finding of unintentional delay, even if the agent-representative made his decision not to timely take the necessary action in a good faith error. In re Maldague, 10 USPQ2d 1477, 1478 (Comm'r Pat. 1988). In this regard, when the maintenance fee became due, Mr. Quantrille sent e-mail correspondence to Banner & Witcoff indicating that he did not intend to make the payment, or cause the payment to be made. As such, the delay resulting from this deliberate action (or inaction) of Mr. Quantrille cannot reasonably be regarded as "unintentional." Moreover, that Mr. Quantrille made a good faith error in judgment does not convert the ensuing delay into "unintentional" delay within the meaning of 35 U.S.C. § 41(c)(1) and 37 CFR 1.378(c). Maldague, supra.

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.

If this petition is not renewed or if renewed and not granted, then petitioner may request a refund of the maintenance and surcharge fees paid. The fee for requesting reconsideration is not refundable.

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

By Mail:
Mail Stop PETITION
Commissioner for Patents
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 Andre Boyce at (571) 272-6726, or in his absence, the undersigned at (571) 272-7099.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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BANNER & WITCOFF, LTD.
1100 13th STREET, N.W.
SUITE 1200
WASHINGTON DC 20005-4051

MAILED
OCT 27 2011
OFFICE OF PETITIONS

In re Patent of :
Derek J. ANGIER et al. :
Patent No. 7,083,771 : ON PETITION
Issue Date: August 1, 2006 :
Application No. 11/186,918 :
Filed: July 22, 2005
Attorney Docket No. 002018.00015

This is a decision on the renewed petition, filed August 15, 2011, under 37 CFR 1.378(e) requesting reconsideration of a prior decision which refused to accept under 37 CFR 1.378(c) the unintentionally delayed payment of a maintenance fee and reinstate the above-identified patent.

The petition to accept the delayed payment of the maintenance fee and reinstate the above-identified patent is **DENIED**.

BACKGROUND

The above-identified patent issued August 1, 2006. Accordingly, the first maintenance fee due could have been paid during the period from August 1, 2009, through February 1, 2010, or with a surcharge during the period from February 2, 2010, through August 1, 2010. The patent expired at midnight August 1, 2010. Therefore, since this petition was filed within twenty-four months after the six-month grace period, this petition was timely filed under the provisions of 37 CFR 1.378(c).

A first petition to reinstate the above identified patent by way of acceptance of the unintentionally delayed payment of the maintenance fee under the provisions of 37 CFR 1.378(c) was filed April 7, 2011 and was dismissed in the decision of June 15, 2011.

This renewed petition under 37 CFR 1.378(e) was filed August 15, 2011 within two months from the mail date of the decision of the first petition. This renewed petition

includes a declaration of Thomas Quantrille, PhD, (hereinafter "Quantrille") who is the President and CEO of Advanced Composite Material, LLC (hereinafter, "ACM") and the assignee of the entire right, title, and interest in the above identified patent, claiming that the email of November 2009 to instruct Banner & Witcoff to "abandon" the above-identified patent was erroneous and did not reflect his actual intent which was that the above-identified patent be kept in force. Quantrille further indicates, as evidence that ACM did not intend to allow the above-identified patent to lapse, that this patent family includes 7 other patent applicants of which 5 have been maintained in force, 1 was allowed to lapse, and another which became unnecessary due to allowance of its parent application.

STATUTE AND REGULATION

35 USC 41(c)(1) provides that:

> The Director may accept the payment of any maintenance fee required by subsection (b) of this section which is made within twenty-four months after the six-month grace period if the delay is shown to the satisfaction of the Director to have been unintentional, or at any time after the six-month grace period if the delay is shown to the satisfaction of the Director to have been unavoidable. The Director may require the payment of a surcharge as a condition of accepting payment of any maintenance fee after the six-month grace period. If the Director accepts payment of a maintenance fee after the six-month grace period, the patent shall be considered as not having expired at the end of the grace period.

37 CFR 1.378(a) provides that:

> The Director may accept the payment of any maintenance fee due on a patent after expiration of the patent if, upon petition, the delay in payment of the maintenance fee is shown to the satisfaction of the Director to have been unavoidable (paragraph (b) of this section) or unintentional (paragraph (c) of this section) and if the surcharge required by § 1.20(i) is paid as a condition of accepting payment of the maintenance fee. If the Director accepts payment of the maintenance fee upon petition, the patent shall be considered as not having expired, but will be subject to the conditions set forth in 35 U.S.C. 41(c)(2).

37 CFR 1.378(c) provides that:

> Any petition to accept an unintentionally delayed payment of a maintenance fee filed under paragraph (a) of this section must be filed within twenty-four months after the six-month grace period provided in § 1.362(e) and must include:
> (1) The required maintenance fee set forth in § 1.20 (e) through (g);
> (2) The surcharge set forth in § 1.20(i)(2); and
> (3) A statement that the delay in payment of the maintenance fee was unintentional.

OPINION

The Director may accept late payment of the maintenance fee if the delay is shown to the satisfaction of the Director to been "unintentional"; see 35 USC 41(c)(1) and its promulgating regulation 37 CFR 1.378(a). That is, the plain language of the statute permits reinstatement of an expired patent, provided the delay in payment of the maintenance fee was "unintentional." See Centigram Communication Corp. v. Lehman, 862 F. Supp. 113, 118, 32 USPQ2d 1346, 1350 (E.D. Va. 1994), *appeal dismissed,* 47 F. 3d 1180 (Fed. Cir. 1995). Nevertheless, the congressional intent is that USPTO acceptance of a delayed maintenance fee is discretionary, and contingent upon a showing satisfactory to the Director, that the delay was "unIntentional." Id. at 116, 32 USPQ2d at 1348.

The showing of record is that, when the maintenance fee was due there was no compelling reason to continue this patent in force.

The record shows that the decision to pay the maintenance fee fell to Quantrille, the responsible person. That Banner & Witcoff failed to pay the maintenance fee because Quantrille instructed Banner & Witcoff to not pay the maintenance fee due. Subsequent to expiration of the patent, Quantrille became aware of the significance of the patent, and if such were known at the time of the decision not to pay the maintenance fee, expiration of the patent would not have been permitted. Quantrille has indicated that he gave the instruction to not pay the maintenance fee due during a lunch break and the he was distracted by the content of the meeting. As such, petitioner asserts, the delay in payment was unintentional. This action cannot be viewed as constituting an "unavoidable delay" or an "unintentional delay" within the meaning of 35 U.S.C. 41(c)(1), 37 CFR 1.378(b) and 37 CFR 1.378(c). In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pat. 1989). Such intentional action or inaction precludes a finding of unintentional delay. Petitioner's preoccupation with other matters does not excuse the delay in payment of the maintenance fee herein. See, Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981).

Further, since Quantrille has instructed petitioner in the form of email to abandon the above-identified patent, it does not reflect that the assignee exercised due care and diligence generally used and observed by prudent and careful men in relation to their most important business within the meaning of Pratt, supra.

The Director may accept the payment of any maintenance fee required by 35 USC 41(b) which is made within twenty-four months after the six-month grace period if the delay is shown to the satisfaction of the Director to have been unintentional. See 35 USC 41(c)(1).

35 USC 41(c)(1) authorizes the Director to accept a delayed maintenance fee payment "if the delay is shown to the satisfaction of the Director to have been "unintentional." 35 USC 41(c)(1) does not require an affirmative finding that the delay was intentional, but only an explanation as to why the petitioner has failed to carry his or her burden to establish that the delay was unintentional. Cf. Commissariat A. L'Energie Atomique v.

Watson, 274 F.2d 594, 597, 124 USPQ 126, 128 (D.C. Cir. 1960)(35 USC 133 does not require the Commissioner to affirmatively find that the delay was avoidable, but only to explain why the applicant's petition was unavailing); see also In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pat. 1989)(petition under 37 CFR 1.137(b) denied because the applicant failed to carry the burden of proof to establish that the delay was unintentional).

As discussed above, Petitioner has failed to carry its burden of proof to establish to the satisfaction of the Director that the delay in payment of the maintenance fee for the above-identified patent was unintentional within the meaning of 35 USC 41(c) and 37 CFR 1.378(c).

A delay caused by the deliberate decision not to take appropriate action within a statutorily prescribed period does not constitute an unintentional delay within the meaning of 35 U.S.C. 41. In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pat. 1989). Such intentional action or inaction precludes a finding of unintentional delay, even if the agent-representative made his decision not to timely take the necessary action in a good faith error. In re Maldague, 10 USPQ2d 1477, 1478 (Comm'r Pat. 1988). In this regard, when the maintenance fee became due, Quantrille sent an email correspondence to Banner & Witcoff indicating that he did not intend to make payment, or cause the payment to be made. As such, the delay resulting from this deliberate action (or inaction) of Quantrille cannot reasonably be regarded as "unintentional." Moreover, that Quantrille made a good faith error in judgement does not convert the ensuring delay into "unintentional" delay within the meaning 35 U.S.C. 41 (c) (1) and 37 CFR 1.378(c). Maldague, supra.

35 USC 41(c)(1) authorizes the Director to accept the delayed payment of a maintenance fee under 35 USC 41(b) if, *inter alia*, "the delay is shown to the satisfaction of the Director to have been unintentional." In this case, petitioner has failed to carry its burden to establish that the delay in paying the maintenance fee payment for the above-identified patent was unintentional on the part of Quantrille. Obviously, a delay resulting from a deliberate decision by the relevant party (Quantrille) not to pay a maintenance fee cannot reasonably be characterized as an "unintentional" delay within the meaning of 35 USC 41(c)(1) and 37 CFR 1.378(c). Moreover, no reason has been given or is apparent as to why Quantrille's decision and subsequent action (or inaction) should not be binding on petitioner.

The record fails to adequately evidence the delay was unintentional since reasonable care was not taken to ensure that maintenance fee would be timely submitted.

CONCLUSION

The prior decision under 37 CFR 1.378(c), which refused to accept the delayed payment of the maintenance fee, for the above-identified patent has been reconsidered. For the above stated reasons, the delay in this case cannot be regarded as unintentional within the meaning of 35 USC 41(c)(1) and 37 CFR 1.378(c).

The $400 fee for requesting reconsideration is being charged to petitioner's Deposit Account No. 19-0733.

As stated in 37 CFR 1.378(e), no further reconsideration or review of this matter will be undertaken.

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

Telephone inquiries regarding this decision should be directed to Wilson Lee at (571) 272-1824, or in his absence, the undersigned at (571) 272-3687.

Anthony Knight
Director
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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MOTOROLA SOLUTIONS, INC
Penny Tomko
1303 EAST ALGONQUIN ROAD
IL01/11th
SCHAUMBURG IL 60196

MAILED

JUL 13 2011

OFFICE OF PETITIONS

In re Application of :
Rappaport et al. :
Application No.: 11/186929 : DECISION
Filing or 371(c) Date: 07/22/2005 : ON PETITION
Title of Invention: :
SYSTEM, METHOD, AND APPARATUS :
FOR DETERMINING AND USING THE :
POSITION OF WIRELESS DEVICES OR :
INFRASTRUCTURE FOR WIRELESS :
NETWORK ENHANCEMENTS :

This is a decision on the "Petition Under 37 CFR § 1.182," filed July 7, 2011, to correct the spelling of an inventor's name.

The petitions are **granted.**

MPEP 201.03, Correction of Inventorship in an Application, provides

(B) Where a typographical or transliteration error in the spelling of an inventor 's name is discovered, the Office should simply be notified of the error. A new oath or declaration is not required. See MPEP § 605.04(g). Reference to the notification will be made on the previously filed oath or declaration.

However, "[e]xcept for correction of a typographical or transliteration error in the spelling of an inventor's name, a request to have the name changed from the typewritten version to the signed version or any other corrections in the name of the inventor(s) will not be entertained, unless accompanied by a petition under 37 CFR 1.182 together with an appropriate petition fee."

MPEP 605.04(b)

Applicant is further advised that

Although 37 CFR 1.76 does not change the practice in MPEP § 201.03 and §

605.04(b) regarding correction of a typographical or transliteration error in the spelling of an inventor's name whereby all that is required is notification of the error to the Office, the Office strongly encourages the filing of an application data sheet or a supplemental application data sheet to correct a typographical or transliteration error in the spelling of an inventor's name. A supplemental oath or declaration is not required.
If applicant merely files a statement notifying the Office of the typographical or transliteration error in the spelling of an inventor's name without submitting an application data sheet or a supplemental application data sheet, any patent to issue is less likely to reflect the correct spelling since the spelling of the inventor's name is taken from the oath or declaration, or any subsequently filed application data sheet.

MPEP 601.05

The petition is hereby granted.

The name of inventor Anatha Veera has been changed to Anantha Veeraraghavan and the name Anantha Veeraraghavan has been entered and made of record in the above-identified application.

The application is being referred to Publishing Division for processing into a patent in the normal course of business.

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

/DLW/

Derek L. Woods
Attorney
Office of Petitions

Enclosures: 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
11/186,929	07/22/2005	2617	4165	WV00052	131	10

CONFIRMATION NO. 4250

CORRECTED FILING RECEIPT

24273
MOTOROLA SOLUTIONS, INC
Penny Tomko
1303 EAST ALGONQUIN ROAD
IL01/11th
SCHAUMBURG, IL 60196

Date Mailed: 07/12/2011

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

Applicant(s)

Theodore S. Rappaport, Austin, TX;
Roger R. Skidmore, Austin, TX;
Veeraraghavan Anantha, Austin, TX;
Eric Reifsnider, Corvallis, OR;

Power of Attorney: The patent practitioners associated with Customer Number 24273

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/590,518 07/23/2004
and claims benefit of 60/648,481 01/31/2005

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: 08/12/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/186,929**

Projected Publication Date: Not Applicable

Non-Publication Request: No

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

Title

SYSTEM, METHOD, AND APPARATUS FOR DETERMINING AND USING THE POSITION OF WIRELESS DEVICES OR INFRASTRUCTURE FOR WIRELESS NETWORK ENHANCEMENTS

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).

UNITED STATES PATENT AND TRADEMARK OFFICE

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MOTOROLA SOLUTIONS, INC
Penny Tomko
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IL01/11th
SCHAUMBURG IL 60196

MAILED
JUL 13 2011
OFFICE OF PETITIONS

In re Application of	:	
Rappaport et al.	:	
Application No.: 11/186929	:	DECISION
Filing or 371(c) Date: 07/22/2005	:	ON PETITION
Title of Invention:	:	
SYSTEM, METHOD, AND APPARATUS	:	
FOR DETERMINING AND USING THE	:	
POSITION OF WIRELESS DEVICES OR	:	
INFRASTRUCTURE FOR WIRELESS	:	
NETWORK ENHANCEMENTS	:	

This is a decision on the "Petition to Expedite Under 37 CFR § 1.182," filed July 7, 2011, requesting expedited treatment of a petition to correct an inventor's name, also filed on July 7, 2011.

This Petition is hereby **granted**.

A Decision on the petition under 37 CFR § 1.182 to correct an inventor's name, filed July 7, 2011, is being mailed on even date herewith.

The application is being referred to Publishing Division for processing into a patent in the normal course of business.

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

/DLW/

Derek L. Woods
Attorney
Office of Petitions

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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Paper No.

FITCH EVEN TABIN & FLANNERY
120 SOUTH LASALLE STREET
SUITE 1600
CHICAGO IL 60603-3406

MAILED

SEP 13 2010

OFFICE OF PETITIONS

In re Patent No. 7,595,022	: DECISION ON REQUEST
Jack Priegel	: FOR
Issue Date: September 29, 2009	: RECONSIDERATION OF
Application No. 11/187,060	: PATENT TERM ADJUSTMENT
Filed: July 22, 2005	: and
Atty Docket No. 7806/82346	: 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 one thousand twenty-six (1026) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand twenty-six (1026) days is **GRANTED**.

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

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand twenty-six** (1026) 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 : 7,595,022 B2

DATED : **September 29, 2009** **DRAFT**

INVENTOR(S) : Priegel

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 687 days

Delete the phrase "by 687 days" and insert – by 1026 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

Date Mailed : March 30, 2012

Patent No. :7908042
Inventor(s) :Roger R. Brinkley
Issued :March 15, 2011
Title :METHODS AND APPARATUS FOR WIRELESS UPLOAD AND
:DOWNLOAD OF AIRCRAFT DATA

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.

Related Application Data with respect to the first sentence of the specification" and/or any amendments thereto, is used for printing data claimed under 35 USC 120 as well as the Oath and/or ADS. Since the Oath/ADS does not reflect the requested information, correction is not warranted under Rule 1.322. See MPEP §1.78(a)(3).

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

Mark D. Elchuk
Harness, Dickey & Pierce, P.L.C.
P.O. Box 828
Bloomfield Hills, Michigan 48303

/arg

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20120210-

DATE : February 10, 2012

TO SPE OF : ART UNIT 2873

SUBJECT : Request for Certificate of Correction on Patent No.: 7304784

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 proposed correction to the patent is approved. /Evelyn A. Lester/ (Patent Examiner)

/Ricky L. Mack/
Supervisory Patent Examiner, Art Unit 2873

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED
OCT 01 2010
OFFICE OF PETITIONS

Applicant: Hansen et al
Application No. 11/187,168
Filed: July 21, 2005
Attorney Docket No.: 101612-5027 US
For: System and Method For Providing a Hedge Fund Structured Products Platform

: Decision on
: Petition

This is a decision in response to the petitions entitled "Request for Reconsideration of Petition under 37 CFR 1.181", received on November 20, 2006 and November 21, 2006, requesting the Office to accept the nonpublication request that was filed with the above-identified application, remove the publication of the above-identified application from the Office website, and discontinue public access to the application file of the above-identified application.

The petition under 37 CFR 1.181 is dismissed.

Background

On July 21, 2005, the above-identified application was received by the Office.

On August 11, 2005, a Filing Receipt was mailed by the Office, which indicated that a "Non-Publication Request" had not been received.

On December 9, 2005, a Filing Receipt was mailed by the Office, which indicated that a "Non-Publication Request" had not been received and indicated that the application was scheduled for publication on March 23, 2006.

On April 13, 2006, the application was published by the Office.

On July 18, 2006, a notice was mailed by the Office of Patent Publication vacating the requirement for a publication fee, which also indicated that a valid Non-Publication request had been received.

On July 18, 2006, Petition submitted a petition requesting that the publication be withdrawn.

On July 24, 2006, a decision was mailed by the Office dismissing the Petition and vacating the notice Vacating Requirement for Publication Fee mailed on July 18, 2006.

Petitioner asserts that a proper nonpublication request, compliant with 35 U.S.C. § 122(b)(2) and 37 CFR 1.213 was submitted at the time of filing. Petitioner requests that the publication of the above-identified application be removed from the Office website and that the Office discontinue public access to the prosecution file.

Petitioner's argues that the Nonpublication request has been mischaracterized by the Office. Petitioner asserts that there is no prohibition against a non-publication request being on page 2 of a transmittal letter and that the Office has placed it on the second page of Form PTO/SB/14. Petitioner asserts that the Office statement that the second page has a title "PATENT APPLICATION FEE VALUE" is incorrect as the page has no title. Petitioner asserts that the phrase "PATENT APPLICATION FEE VALUE" is hardly more prominent than "**DO NOT PUBLISH**" on the same page.

Petitioner asserts that the paragraph is not one paragraph among numerous other paragraphs. Petitioner asserts that the MPEP does not state that providing one paragraph among numerous other paragraphs with no highlighting of the non-publication request is not conspicuous and here the request is highlighted. Petitioner asserts that the non-publication request has a check box similar to the Office Form and that the Font size is irrelevant. Petitioner asserts that the font size is 10, not 9 as asserted by the Office.

Petitioner asserts that the non-publication request is properly worded as required by the statute. Petitioner asserts that the request is conspicuous, as it is in boldface and capitals. Petitioner asserts that it is written such that a reasonable person whom it is to operate ought to have noticed it. Petitioner asserts that neither the statute or the rule or the MPEP requires the use of the Office non-publication request form (PTO/SB/35). Petitioner asserts that the MPEP only states that "the format set forth in From PTO/SB/35" should be used. The MPEP does not state that it must be used.

Petitioner assets that 37 CFR 1.4(c) is irrelevant. Petitioner asserts that a non-publication request is just a request and it is not a subject inquiry or an order. Petitioner asserts that the Office interpretation of 37 CFR 1.4 is incorrect, as applicants submit many items on transmittal letters, such as claims to small entity status, claims to prior applications, which are distinct subjects. Petitions assert that the decision conflicts with 35 U.S.C. 122, as applicant made the required certification and when it is pointed out to the Office; the Office does not have a right to deny its effect.

Pertinent Statute and Regulation

35 U.S.C. 122(b) Publication of Patent Applications

(b)PUBLICATION.—

(1)IN GENERAL.—

(A)Subject to paragraph (2), each application for a patent shall be published, in accordance with procedures determined by the Director, promptly after the expiration of a period of 18 months from the earliest filing date for which a benefit is sought under this title. At the request of the applicant, an application may be published earlier than the end of such 18-month period.

(B)No information concerning published patent applications shall be made available to the public except as the Director determines.

(C)Notwithstanding any other provision of law, a determination by the Director to release or not to release information concerning a published patent application shall be final and nonreviewable.

(2)EXCEPTIONS.—

(A)An application shall not be published if that application is—

(i)no longer pending;

(ii)subject to a secrecy order under section 181 of this title;

(iii)a provisional application filed under section 111(b) of this title; or

(iv)an application for a design patent filed under chapter 16 of this title.

(B)(i)If an applicant makes a request upon filing, certifying that the invention disclosed in the application has not and will not be the subject of an application filed in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing, the application shall not be published as provided in paragraph (1).

(ii)An applicant may rescind a request made under clause (i) at any time.

(iii)An applicant who has made a request under clause (i) but who subsequently files, in a foreign country or under a multilateral international agreement specified in clause (i), an application directed to the invention disclosed in the application filed in the Patent and Trademark Office, shall notify the Director of such filing not later than 45 days after the date of the filing of such foreign or international application. A failure of the applicant to provide such notice within the prescribed period shall result in the application being regarded as abandoned, unless it is shown to the satisfaction of the Director that the delay in submitting the notice was unintentional.

(iv)If an applicant rescinds a request made under clause (i) or notifies the Director that an application was filed in a foreign country or under a multilateral international agreement specified in clause (i), the application shall be published in accordance with the provisions of paragraph (1) on or as soon as is practical after the date that is specified in clause (i).

(v)If an applicant has filed applications in one or more foreign countries, directly or through a multilateral international agreement, and such foreign filed applications corresponding to an application filed in the Patent and Trademark Office or the description of the invention in such foreign filed applications is less extensive than the application or description of the invention in the application filed in the Patent and Trademark Office, the applicant may submit a redacted copy of the application filed in the Patent and Trademark Office eliminating any part or description of the invention in such application that is not also contained in any of the corresponding applications filed in a foreign country. The Director may only publish the redacted copy of the application unless the redacted copy of the application is not received within 16 months after the earliest effective filing date for which a benefit is sought under this title. The provisions of section 154(d) shall not apply to a claim if the description of the invention published in the redacted application filed under this clause with respect to the claim does not enable a person skilled in the art to make and use the subject matter of the claim.

§ 1.213 Nonpublication request.

(a)If the invention disclosed in an application has not been and will not be the subject of an application filed in another country, or under a multilateral international agreement, that requires publication of applications eighteen months after filing, the application will not be published under 35 U.S.C. 122(b) and § 1.211 provided:

(1)A request (nonpublication request) is submitted with the application upon filing;

(2)The request states in a conspicuous manner that the application is not to be published under 35 U.S.C. 122(b);

(3)The request contains a certification that the invention disclosed in the application has not been and will not be the subject of an application filed in another country, or under a multilateral international agreement, that requires publication at eighteen months after filing; and

(4)The request is signed in compliance with § 1.33(b).

(b)The applicant may rescind a nonpublication request at any time. A request to rescind a nonpublication request under paragraph (a) of this section must:

(1)Identify the application to which it is directed;

(2)State in a conspicuous manner that the request that the application is not to be published under 35 U.S.C. 122(b) is rescinded; and

(3)Be signed in compliance with § 1.33(b).

(c)If an applicant who has submitted a nonpublication request under paragraph (a) of this section subsequently files an application directed to the invention disclosed in the application in which the nonpublication request was submitted in another country, or under a multilateral international agreement, that requires publication of applications eighteen months after filing, the applicant must notify the Office of such filing within forty-five days after the date of the filing of such foreign or international application. The failure to timely notify the Office of the filing of such foreign or international application shall result in abandonment of the application in which the nonpublication request was submitted (35 U.S.C. 122(b)(2)(B)(iii)).

Decision

Petitioners' assertion that a proper nonpublication request, compliant with 35 U.S.C. § 122(b)(2) and 37 CFR 1.213 was submitted at the time of filing the above-identified application is not persuasive. The nonpublication request filed by the petitioners is not in compliance with 37 CFR 1.213(a)(2) because the request does not state in a conspicuous manner that the application is not to be published under 35 U.S.C. 122(b).

Petitioner's assertion that the request for nonpublication "DO NOT PUBLISH" is hardly less prominent than the phrase "PATENT APPLICATION FEE VALUE" is not persuasive. The request is on the second page of a transmittal letter. What appears to be the title on the second page of the transmittal letter is "PATENT APPLICATION FEE VALUE" and the chart follows the title summarizes the claims fee, search fee, examination fee, application size fee, and filing fee, which gives the appearance of a fee transmittal sheet. The phrase "PATENT APPLICATION FEE VALUE" appears in the middle of the page and the fee chart below it accounts for approximately 25% of the page. The nonpublication request was placed after the chart among other items with check boxes.

Petitioner's assertion that the Office form PTO/SB/14 uses a small font size and places the request on the second page is not persuasive. The Office form is an Office Form, thus the Office

is familiar with the format and content of the form and aware to look for the information. Furthermore, the Office form relied upon by Petitioner is an EFS form designed for EFS-web, which is intended to be submitted via EFS-Web electronically, such that it will be auto-loaded into the Office systems. Auto-loading is the process of automatically extracting data from the USPTO fillable forms and loading the data into USPTO databases.

The font size of the nonpublication request and the other items with check boxes is approximately 9 point in Times New Roman, which is smaller than the recommended font size of 12 point for text on application papers. See 37 CFR 1.52(b)(2)(ii). Petitioner's argument that the preferred text size only applies to the specification is not persuasive. According to the 37 CFR 1.213, the nonpublication request is required to be conspicuous. The Office required the nonpublication request to be conspicuous so that the Office could recognize the request and not schedule the application for publication. Petitioner's assertion that submission of a nonpublication request in a font size below the recommended font size for text in applications to be legible is conspicuous because the rule does not address forms or other parts of the application is not persuasive.

> Petitioner's assertion that the rules, statute and the MPEP do not require use of the Office forms and that he is not required to follow the guidelines is not persuasive. Petitioner did not follow the guidelines set forth in the Manual of Patent Examining Procedure (8th Edition, Rev. 2, May 2004) for filing nonpublication requests. The Office has strongly encouraged applicants to use the form PTO/SB/35 or similar format on a separate paper when applicants filing a nonpublication request so that the Office can recognize the nonpublication request among numerous application papers. MPEP § 1122 under the heading "II. FILING A NONPUBLICATION REQUEST" provides that "[a]pplicants should use the format set forth in form PTO/SB/35, Nonpublication Request under 35 U.S.C. 122(b)(2)(B)(i), to ensure that the certification includes the proper language required by the statute and the request is stated in a conspicuous manner. Form PTO/SB/35 is available from the USPTO web-site (www.uspto.gov), and is reproduced in MPEP § 1135 .... A request for nonpublication may not be recognized unless it is conspicuous. See 37 CFR 1.213(a)(2). Providing text as one paragraph among numerous other paragraphs with no highlighting of the request for nonpublication is not conspicuous, and thus the Office's assignment of a publication date would be appropriate." (Emphasis added.) Furthermore the Office posted Q & A's on the Office website to give applicants guidance, which indicated that a nonpublication request where the request is in the specification of the application, on a fee transmittal sheet, or buried in the transmittal letter would not be conspicuous.

Link
http://www.uspto.gov/patents/law/aipa/18month/18monthfaq.jsp#cq

> CQ4. I did not use the USPTO form, "Nonpublication Request Under 35 U.S.C. 122(b)(2)(B)(i)" (posted at http://www.uspto.gov/web/forms/sb0035.pdf [PDF]), when I filed a patent application. Instead I put the request for non-publication in the body of the declaration for the patent application under 37 CFR 1.63. My application was assigned a

> publication date. How can I get the non-publication request treated and not have my application published? (Renumbered from CA4; Updated 10/01)
>
> A request for non-publication will not be recognized unless it is conspicuous. See 37 CFR 1.213(a)(2). Providing text as one paragraph among numerous other paragraphs with no highlighting of the request for non-publication is not conspicuous, and thus the Office's assignment of a publication date was appropriate. To avoid publication you may expressly abandon the application, and file a new application under 37 CFR 1.53(b), claiming priority to the earlier-filed application, with a "Nonpublication Request under 35 U.S.C. 122(b)(2)(B)(i)" (posted at http://www.uspto.gov/web/forms/sb0035.pdf [PDF]) or make the request and certification in a similarly conspicuous manner when filing the patent application. If your application has been assigned a publication date within the next one to six months, you should consider filing a petition for express abandonment under 37 CFR 1.138(c). If your application has been assigned a publication date within the next four weeks, then it is too late to avoid publication of the application. See Changes to Implement Eighteen-Month Publication of Patent Applications, Final Rule, 65 Fed. Reg. 57024, 57034, Sep. 20, 2000, 1239 Off. Gaz. Pat. Office 63, 73 (October 10, 2000) . Applicant would have a similar remedy in other situations where the request is not conspicuous, for example, where the request is in the specification of the application, on a fee transmittal sheet, or buried in the transmittal letter.

Furthermore, the Office also encouraged applicants to contact the Office promptly if a projected publication date has been assigned in error as shown on the filing receipt of the application. MPEP § 1122 further provides that "[i]f applicant includes a nonpublication request as specified by 35 U.S.C. 122(b)(2)(B)(i) and the filing receipt reflects a projected publication date, applicant should promptly contact the Office and determine whether the nonpublication request was overlooked." (Emphasis added.) For the above-identified application, the Office did not recognize the nonpublication request submitted by the petitioners and assigned a projected publication date on the filing receipts mailed to the petitioners on August 11, 2005 and December 9, 2005. The petitioners did not contact the Office until July 18, 2006 after the above-identified application has been published on April 13, 2006.

Petitioner's argument that 37 CFR 1.4(c) is irrelevant is not persuasive. Petitioners' that he can fail to comply with a rule and then insist that the Office recognize is request is not persuasive. Petitioner asserts that the MPEP does not require applicants submit the nonpublication request on a separate form and that it is just a recommendation. While the Office attempts to accommodate applicants in submission of papers that do not comply with all of the rules, such as 37 CFR 1.4 that does not provide Petitioner's a right to demand that failure to comply with the rules is irrelevant. The nonpublication also does not comply with 37 CFR 1.4(c), which states that since different matters may be handled by different branches or sections of the Office, each distinct subject, inquiry or order must be contained in a separate paper to avoid confusion and delay in answering the papers dealing with different subjects. Since the subject of a nonpublication request is a separate matter from a priority claim, a certified copy, an amendment to the specification, an authorization to charge fees and an accounting of application fees, it must be on a separate paper to comply with 37 CFR 1.4(c). Applicant's assertion that a benefit claim

can be made on a transmittal letter is inconsistent with 37 CFR 1.78, which requires benefit claims to be in the first sentence of the specification.

Petitioner's argument that the statute does not require the nonpublication request to be conspicuous and that it only requires the statement to be made is not persuasive. The statute provides "each application for a patent shall be published, in accordance with procedures determined by the Director" and the Director put procedure in place that required the nonpublication request to be conspicuous. If the Direct did not have the authority to put procedures in place, then applicants could place the nonpublication request anywhere within the application papers and the Office would be required to find the requests within the papers so that the applications would not be improperly published.

Accordingly, the Office will not accept the nonpublication request filed by the petitioner for the above-identified application as proper under 37 CFR 1.213 for the reasons stated above. The above-identified application is properly published under 35 U.S.C. 122(b) and 37 CFR 1.211.

Petitioner did not file the application with a compliant nonpublication request and the application is not subject to a secrecy order, so therefore the application was properly published on April 13, 2006.

Petitioner's deposit account has not been charged a petition fee.

Inquiries regarding this communication should be directed the undersigned at (571) 272-7709.

Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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

AT & T Legal Department - BK
Attention Patent Docketing
Room 2A-207
One AT & T Way
Bedminster, NJ 07921

Mail Date: 09/14/2010

Applicant	: Manivannan Velupillai	: DECISION ON REQUEST FOR
Patent Number	: 7657871	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/187,224	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/22/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1209** 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 : 05/23/11

TO SPE OF : ART UNIT 3624

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/187,227 Patent No.: 7908149

CofC mailroom date: 05/10/11

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

RoChaun Johnson
Certificates of Correction Branch
703-756-1580

Thank You For Your Assistance

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

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

Comments: _____

_____

_____

_____

_____ _____

SPE Lynda Jasmin
Art Unit 3624

Doc Code: PET.AUTO Document Description: Petition automatically granted by EFS-Web	PTO/SB/64 U.S. Patent and Trademark Office Department of Commerce

Electronic Petition Request	PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)
Application Number	11187315
Filing Date	23-Jul-2005
First Named Inventor	Daniel DiLorenzo
Art Unit	3762
Examiner Name	SCOTT GETZOW
Attorney Docket Number	ANSTIM 01.01
Title	CLOSED-LOOP AUTONOMIC NEUROMODULATION FOR OPTIMAL CONTROL OF NEUROLOGICAL AND METABOLIC DISEASE

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus any extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee – required for all utility and plant applications filed before June 8, 1995; and for all design applications;
(4) Statement that the entire delay was unintentional.

Petition fee
The petition fee under 37CFR 1.17(m) is attached.

☐ Applicant claims SMALL ENTITY status. See 37 CFR 1.27.

☐ Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

☒ Applicant(s) status remains as SMALL ENTITY.

☐ Applicant(s) status remains as other than SMALL ENTITY.

Issue Fee and Publication Fee :

Issue Fee and Publication Fee must accompany ePetition.

☒ Issue Fee Transmittal is attached

Drawing corrections and/ or other deficiencies.

◉ Drawing corrections and/ or other deficiencies are not required ○ I certify, in accordance with 37 CFR 1.4.(D)(4), that drawing corrections and/ or other deficiencies have previously been filed on ○ Drawing corrections and/ or other deficiencies are attached. ☒ STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional.
THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES I certify, in accordance with 37 CFR 1.4(d)(4) that I am: ○ An attorney or agent registered to practice before the Patent and Trademark Office who has been given power of attorney in this application. ○ An attorney or agent registered to practice before the Patent and Trademark Office, acting in a representative capacity. ◉ A sole inventor ○ A joint inventor; I certify that I am authorized to sign this submission on behalf of all of the inventors. ○ A joint inventor; all of whom are signing this e-petition. ○ The assignee of record of the entire interest that has properly made itself of record pursuant to 37 CFR 3.71.

Signature	/Daniel John DiLorenzo, MD, PhD/
Name	Daniel John DiLorenzo, MD, PhD

UNITED STATES 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 : May 30,2011

In re Application of :

Daniel DiLorenzo

Application No : 11187315

Filed : 23-Jul-2005

Attorney Docket No : ANSTIM 01.01

DECISION ON PETITION

UNDER CFR 1.137(b)

This is an electronic decision on the petition under 37 CFR 1.137(b), filed May 30,2011 , to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Allowance and Issue Fee(s) Due. The date of abandonment is the day after the expiration date of the period set for reply in the Notice.

The electronic petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the Issue Fee and the Publication Fee (if necessary); (2) the petition fee as set forth in 37 CFR 1.17 (m); (3) the drawing correction and/or other deficiencies (if necessary); and (4) the required statement of unintentional delay have been received. Accordingly, the Issue Fee payment is accepted as having been unintentionally delayed.

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

This application file is being directed to the Office of Data Management.

Office of Petitions

UNITED STATES 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 E. STRAUSS
410 HIGH CHAPARRAL LOOP
PRESCOTT AZ 86303

MAILED

SEP 29 2010

OFFICE OF PETITIONS

In re Application of
Stevenson et al.
Application No. 11/187,392
Filed: July 21, 2005
Attorney Docket No. STEV-115

DECISION ON PETITION

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed August 9, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This above-identified application became abandoned for failure to timely file a reply to a non-final Office action mailed September 17, 2009. The Office Action set a three (3) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on December 18, 2009. A Notice of Abandonment was mailed March 30, 2010.

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

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

It should be noted that the previously submitted $270.00 petition is not refundable.

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

This application is being referred to Technology Center AU 1791 for appropriate action by the Examiner in the normal course of business on the reply received

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
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November 14, 2011

Patent No. : 7,974,963 B2
Appl. No. : 11/187,567
Inventor(s) : Ming Zhou, et al.
Issued : July 5, 2011
Title : **METHOD AND SYSTEM FOR RETRIEVING CONFIRMING SENTENCES**
Docket No. : **300211.07**

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

WESTMAN CHAMPLIN (MICROSOFT CORPORATION)
SUITE 1400
900 SECOND AVENUE SOUTH
MINNEAPOLIS MN 55402

UNITED STATES 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
JAN 24 2011
OFFICE OF PETITIONS

In re Patent of Flake	:	
Patent No. 7,788,555	:	
Issue Date: August 31, 2010	:	DECISION ON REQUEST
Application No. 11/187,580	:	FOR RECONSIDERATION OF
Filed: July 22, 2005	:	PATENT TERM ADJUSTMENT
Docket No. 16570US01	:	

This is a decision on the petition filed on November 1, 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 four (304) days.

The petition under 37 CFR 1.705(d) is **dismissed.**

The sole issue pertains to the three years to issue guarantee of 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b) (hereinafter, "B delay").

The Office does not concur with patentee's assertion the period of B delay is 79 days. The period of B delay in this case is 78 days. Unless a Request for Continued Examination ("RCE") is filed, the period of B Delay ends of the date the patent issues. In this case, a RCE was filed January 9, 2009. Per 35 U.S.C. § 154(b)(1)(B)(i), B Delay does not include "any time consumed by continued examination of the application requested by the applicant under section 132(b)."

37 CFR 1.703(b)(1) provides:

> (b) The period of adjustment under § 1.702(b) is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C.

371(b) or (f) in an international application and ending on the date a patent was issued, but not including the sum of the following periods:

(1) The number of days, if any, in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued;

As stated above, the date on which a RCE was filed is not included in the B Delay period. The maximum B Delay in this case is is 170 days, which is the number of days beginning on July 23, 2008, the day after the date three years after the application's filing date, and ending on January 8, 2009, the day before the date the RCE was filed.

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." A Notice of Appeal was filed on October 9, 2008 and applicant withdrew the appeal by filing an RCE on January 9, 2009. January 9, 2009 is not part of the excluded period, as it is not part of the maximum B Delay period. See discussion above. Excluding the 92 days consumed by appellate review (beginning October 9, 2008, the date the Notice of Appeal was filed, and ending on January 8, 2009, the day before the RCE was filed) results in a period of B delay of 78 days (170 - 92).

In light of the above, the patent term adjustment remains 303 days, which is the sum of 371 days of A delay and 78 days of B delay, reduced by 146 days of applicant delay.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). This fee is required for consideration of a petition under 37 CFR 1.705(d) and will not be refunded.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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KILPATRICK TOWNSEND & STOCKTON LLP
ADOBE SYSTEMS, INC. 58083
1100 PEACHTREE STREET
SUITE 2800
ATLANTA GA 30309-4530

MAILED

FEB 01 2011

OFFICE OF PETITIONS

In re Patent No. 7,681,178 :
Issued: March 16, 2010 : LETTER REGARDING
Application No. 11/187,626 : PATENT TERM ADJUSTMENT
Filed: July 22, 2005 :
Attorney Docket No. 58083/375144 :
(M112)

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM INDICATED ON PATENT" filed on March 29, 2010, requesting that the patent term adjustment indicated on the above-identified patent be corrected from 1271 days to 1592 days.

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

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

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

It is undisputed that the period of examination delay, "A" delay", pursuant to 37 CFR 1.702(a)(1) is 990 days and the "B" delay period, the over three year period begins on July 22, 2008 and ends on March 16, 2010, the day the patent was issued. However, a period of overlap begins on July 22, 2008, and ends on June 8, 2009, the period of overlap is 321 days, and therefore, considering the 321 days of overlap, the "B" delay is 281 days. As such, the patent term adjustment is 1271 days (990 plus 602 minus 321 overlap minus 0 applicant delay), not 1592 days.

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

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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SCHWABE, WILLIAMSON & WYATT, P.C.
PACWEST CENTER, SUITE 1900
1211 S.W. FIFTH AVE.
PORTLAND, OR 97204

Mail Date: 08/05/2010

Applicant	: Emily H. Qi	: DECISION ON REQUEST FOR
Patent Number	: 7660278	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/187,659	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/22/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1236** 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.

MAILED

SEP 07 2010

OFFICE OF PETITIONS

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

In re Application of :
Abnous :
Application No. 11/187,678 : ON APPLICATION FOR
Filed: July 22, 2005 : PATENT TERM ADJUSTMENT
Patent No. 7,603,400 :
Issued: October 13, 2009 :
Atty Docket No. : 16624US01 :
Title: METHOD AND SYSTEM FOR :
FILTER LOOP WITH SATURATION :

This is a decision on the "REQUEST FOR RECONSIDERATION OF USPTO RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH*," which is being treated as a petition pursuant to 37 C.F.R. 1.705(d), filed June 18, 2010. Patentee requests that the patent term adjustment be corrected from one thousand, one hundred and eight (1108) days to one thousand, one hundred and nine (1109) days.

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

Patentee is given **TWO MONTHS** from the mail date of this decision to respond. No extension of time will be granted under 37 C.F.R. § 1.136.

Application No. 11/187,678 matured into U.S. patent No. 7,603,400 on October 13, 2009, with a patent term adjustment of 862 days. On March 31, 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 1074 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 1.704(c)(10)," vacating the April 21, 2010 mailing, and indicating that the patent term adjustment had been determined to be 1108 days.

With this petition, Patentee contends that one period of reduction was improperly calculated.

37 CFR § 1.704(c)(10) sets forth that the submission of an amendment under § 1.312 after a notice of allowance has been given or mailed will result in a reduction, with said reduction constituting the lesser of four months or the "number of days, if any, *beginning on the date the amendment under § 1.312 or other paper was filed* (emphasis added) and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or such other paper."

A notice of allowance was mailed on June 5, 2009, a Rule 1.312 amendment was filed on September 1, 2009, and a response to the Rule 1.312 amendment was mailed eight days later on September 9, 2009. However, since 37 CFR § 1.704(c)(10) specifies that the reduction period include the date the Rule 1.312 amendment was filed, this constitutes a delay of nine days, and not eight as Patentee has argued. It follows that the nine-day reduction was properly assessed.

In view thereof, the patent term adjustment of 1108 days as set forth in the mailing of May 18, 2010 is correct.

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

Any response to this decision should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail,[1] hand-delivery,[2] or facsimile.[3]

The Certificates of Correction Branch has been advised of this decision. This application is being referred to the Certificates of Correction Branch for issuance of a certificate of correction, as set forth in the mailing of May 18, 2010.

---

1 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
2 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
3 (571) 273-8300 - please note this is a central facsimile number.

Telephone inquiries regarding this decision may directed to Senior Attorney Paul Shanoski at (571) 272-3225.[4]

Anthony Knight
Director
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,603,400 B2

DATED : **October 13, 2009** **DRAFT**

INVENTOR(S) : Abnous

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 862 days

Delete the phrase "by 862 days" and insert – by 1108 days--

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/187,708	07/22/2005	Niels H. Andersen	10395-5002-US01	6362

43850 7590 08/16/2011

MORGAN, LEWIS & BOCKIUS LLP (SF)
One Market, Spear Street Tower, Suite 2800
San Francisco, CA 94105

EXAMINER
DAVIS, BRIAN J

ART UNIT	PAPER NUMBER
1621	

MAIL DATE	DELIVERY MODE
08/16/2011	PAPER

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110813

DATE : August 13, 2011

TO SPE OF : ART UNIT 1621

SUBJECT : Request for Certificate of Correction on Patent No.: 7358359

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:

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:

Niels ANDERSEN, Jason BOWMAN, Alice L. ERWIN, Eric A. HARWOOD, Toni KLINE, Khisimuzi E. MDLULI, Simon NG, Keith B. PFISTER, Ribhi SHAWAR, Allan S. WAGMAN and Asha YABANNAVAR

/DANIEL SULLIVAN/
Supervisory Patent Examiner.Art Unit 1621

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 9-14-10

TO SPE OF : ART UNIT 2475

SUBJECT : Request for Certificate of Correction for Appl. No.: 11187754 Patent No.: 7693145

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (C of C)
Randolph Square – 9D10-E
Palm Location 7580

Omega Lewis
Certificates of Correction Branch

703-756-1575

Thank You For Your Assistance

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

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

Comments: _____

_____

_____

_____

_____

_____ _____
SPE **Art Unit**

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ANDREWS KURTH LLP
1350 I STREET, N.W.
SUITE 1100
WASHINGTON, DC 20005

MAILED

DEC 16 2010

OFFICE OF PETITIONS

In re Application of
Guy Jonathan James Rackham
Application No. 11/187,824
Filed: July 25, 2005
Attorney Docket No.: 161167

ON PETITION

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

The above-identified application became abandoned for failure to respond in a timely manner to the Notice of Allowability mailed June 25, 2010. A Notice of Abandonment was mailed on October 13, 2010. On October 20, 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; (2) the petition fee of $810 and (3) an adequate statement of unintentional delay.

Accordingly, the petition is **GRANTED**.

The application is being referred to the Office of Data Management for further processing as 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 2/25/2011

TO SPE OF : ART UNIT 2818

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/187,829 Patent No. 7,303,937

CofC mailroom date 2/14/11

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

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.

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

Comments: _____

_____

_____

_____

Tom Thomas — SPE

3-14-11 — Art Unit

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OGILVY RENAULT LLP
1, PLACE VILLE MARIE
SUITE 2500
MONTREAL QC H3B 1R1 CA CANADA

MAILED

AUG 16 2010

OFFICE OF PETITIONS

In re Patent No. 7,625,962	:	
Issue Date: December 01, 2009	:	
Application No. 11/187,957	:	DECISION ON PETITION
Filed: July 25, 2005	:	
Attorney Docket No. 05202435-138US-1 KPM/en	:	

This is a decision on the petition, filed May 19, 2010, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee's name on the Fee(s) Transmittal form PTOL-85(b) so that the Letters Patent will issue to the assignee.

The request is **DISMISSED**.

Petitioner states that the correct assignee's name is "**FPINNOVATIONS**" and that an incorrect assignee's name was included on the Part B - Fee(s) Transmittal form at the time of payment of the issue fee. Accordingly, petitioner requests that the patent issue to "**FPINNOVATIONS**".

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

A review of Office records indicates that, on the Issue Fee Transmittal submitted October 22, 2009 applicant did in fact name **"FI FPINNOVATIONS"** as the assignee.

Therefore, upon submission of the required request under 37 CFR 3.81(b) and fee of $130.00 along with the certificate of correction and fee of $100.00, it would be appropriate for the Office to issue a certificate of correction to correct the front page of the Letters Patent to reflect that **"FPINNOVATIONS"** was the assignee of record at the time of issuance of the application into a patent. *Note also* 35 U.S.C. § 152.

As petitioner has failed to comply with the provisions of 37 CFR 3.81(b), the request cannot be granted at this time.

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

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions
By internet:	EFS-Web www.uspto.gov/ebc/efs_help.html (for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)

Inquiries concerning this decision 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
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Alexandria, VA 22313-1450
www.uspto.gov

YVONNE ROSONBERG
APT 3
1336 9th ST. NW
WASHINGTON, DC 20001

MAILED

NOV 12 2010

OFFICE OF PETITIONS

In re Application of :
Yvonne Rosenberg :
Application No. 11/188,044 : ON PETITION
Filed: July 25, 2005 :
Attorney Docket No. None :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 24, 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.

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).

It is noted that an amendment was included with the petition filed on May 24, 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

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

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

Alicia Kelley
Petitions Examiner
Office of Petitions

Enclosure: Advisory Action

Advisory Action Before the Filing of an Appeal Brief	**Application No.** 11/188,044	**Applicant(s)** ROSENBERG, YVONNE	
	Examiner IAN DANG	**Art Unit** 1647	

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

THE REPLY FILED 24 May 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires 6 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: *21-27,29-34,37 and 38*.
   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: _____.

Continuation of 3. NOTE:

If the amendments would have been entered, the rejection of claims 21-27, 29-34 and 37 under 35 USC 112, First paragraph (New Matter) would have been withdrawn because Applicants have amended claims 21-27, 29-34 and 37 with "butyrylcholinesterase".

If the amendments would have been entered, the rejection of claims 21-27, 29-34 and 37 under 35 USC 112, Second paragraph, would have been withdrawn because Applicants have amended claims 21-27, 29-34 and 37 with "butyrylcholinesterase".

If the amendments would have been entered, the rejection of claims 21-27, 29-34 and 37 under 35 USC 102(e) as being anticipated by Cohen et al. (US 2004/0147002; published July 29, 2004; filed April 25, 2002; priority date of April 30, 2001), would have been withdrawn because the reference by Cohen does not teach a primate BChE.

If the amendments would have been entered, the rejection of claims 21-27, 29-34 and 37 under 35 USC 112, First paragraph (written description) would have been maintained. The recitation of "post-translationally modified recombinant butyrylcholinesterase (rBChE)" does meet the requirements for written description because the specification does not provide any identifying or structural characteristics for the post-translational modification for the claimed rBChE. The recitation of "post-translationally modified recombinant butyrylcholinesterase (rBChE)" encompasses a genus of modifications that include farsylation, pegylation, glycosylation, and many others.

If the amendments would have been entered, the rejection of claims 21-27, 29-34 and 37 under 35 USC 112, First paragraph (Enablement), would have been maintained because the amendments reciting "primate rBChE" is not sufficient to overcome the rejection. While the specification provides enablement for the expression of human or monkey butyrylcholinesterase in CHO cells, it does not reasonably provide enablement for an isolated primate post-translationally modified recombinant butyrylcholinesterase (rBChE), wherein said primate rBChE has in vivo stability similar to that of native primate BChE and wherein said primate rBChE detoxifies a toxin, which toxin is detoxified by said native primate BChE. The response filed by Applicants does not satisfy the factors that are required to make the claimed invention.

If the amendments would have been entered, the amended claim 37 would have been rejected under 35 USC 112, First paragraph (New Matter), because the limitation reciting "expressed by a viral vector" is not supported by the specification. However, the specification teaches "retroviral vector" (see paragraphs [0025] or [0029]).

If the amendments would have been entered, the newly added claim 38 would have been rejected under 35 USC 112, Second paragraph, because the limitation reciting "glycosylation pattern" is indefinite. More specifically, the specification does not provide any definition or description of what is encompassed by the glycosylation pattern for a BChE recited in claim 38. In addition, the specification does not provide any description or reference for the pattern of the native protein. Finally, the glycosylation pattern may vary depending on the cells that are used to produce the recombinant BChE.

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YVONNE ROSONBERG
APT 3
1336 9th ST. NW
WASHINGTON DC 20001

MAILED

NOV 16 2011

OFFICE OF PETITIONS

In re Application of :
Rosenberg :
Application No. 11/188,044 : DECISION ON PETITIONS
Filed: July 25, 2005 :
For: RECOMBINANT :
BUTYLCHOLINESTERASES :

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

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

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

This above-identified application became abandoned for failure to timely file a proper response to a final Office Action, which was mailed on May 1, 2009. The final Office Action set a three (3) month shortened statutory period for reply. No response was filed. Accordingly, this application became abandoned on August 2, 2009. A Notice of Abandonment was mailed on December 23, 2009. A petition filed under 37 CFR 1.137(b) was dismissed on November 12, 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 (3).

There are three periods to be considered during the evaluation of a petition under 37 CFR 1.137(b):

(1) the delay in reply that originally resulted in the abandonment;

(2) the delay in filing an initial petition pursuant to 37 CFR 1.137(b) to revive the application; and

(3) the delay in filing a grantable petition pursuant to 37 CFR 1.137(b) to revive the application.

Currently, the delay has not been shown to the satisfaction of the Director to be unintentional for period (3).

As to Period (3):

Likewise, where the applicant deliberately chooses not to seek or persist in seeking the revival of an abandoned application, or where the applicant deliberately chooses to delay seeking the revival of an abandoned application, the resulting delay in seeking revival of the abandoned application cannot be considered as "unintentional" within the meaning of 37 CFR 1.137(b). *See* MPEP 711.03(c).

The language of both 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b) are clear and unambiguous, and, furthermore, without qualification. That is, the delay in filing the reply during prosecution, as well as in filing the petition seeking revival, must have been, without qualification, "unintentional" for the reply to now be accepted on petition. The Office requires that the entire delay be at least unintentional as a prerequisite to revival of an abandoned application to prevent abuse and injury to the public. *See* H.R. Rep. No. 542, 97th Cong., 2d Sess. 7 (1982), reprinted in 1982 U.S.C.C.A.N. 771 ("[i]n order to prevent abuse and injury to the public the Commissioner . . . could require applicants to act promptly after becoming aware of the abandonment"). The December 1997 change to 37 CFR 1.137 did not create any new right to overcome an intentional delay in seeking revival, or in renewing an attempt at seeking revival, of an abandoned application. In light of the fact that this petition is being filed over nine months after the dismissed petition of November 12, 2010, a sufficient explanation for the delay in submitting a renewed petition has not been provided.

Applicant's failure to carry the burden of proof to establish that the "entire" delay was "unavoidable" or "unintentional" may lead to the denial of a petition under 37 CFR 1.137(b), regardless of the circumstances that originally resulted in the abandonment of the application.

Any renewed petition may be addressed as follows:

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

By 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.**

Correspondence regarding this decision may also be filed through the electronic filing system of the USPTO.

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

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

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

MAILED

AUG 13 2010

OFFICE OF PETITIONS

In re Application of :
Sun-Hee Bang :
Application No.: 11/188,209 : ON PETITION
Filed: July 25, 2005 :
Attorney Docket No.: P57577 :

This is a decision on the petition, filed August 12, 2010, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

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

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

The application is being referred to Technology Center AU 1795 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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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS, TX 75265

MAILED

APR 05 2011

OFFICE OF PETITIONS

In re Application of :
Cabillic et al. :
Application No. 11/188,310 : ON PETITION
Filed: July 25, 2005 :
Attorney Docket No. TI-38572 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 9, 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 file a reply within the meaning of 37 CFR 1.113 to the final Office action of February 19, 2010. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that prima facie places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is May 20, 2010. A Notice of Abandonment was mailed October 4, 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 petition lacks item (1), the required reply. Petitioner asserts that a Notice of Appeal was submitted with the petition herein, however no such submission was received in the Office. A review of the file record does not indicate that a Notice of Appeal including the fee required by 37 CFR 41.20(b)(1) was submitted with the petition on December 9, 2010. The record however does indicate that an Appeal Brief and fee was received on December 9, 2010, however an Appeal Brief is not the appropriate reply. Accordingly, this application cannot be revived until a Notice of Appeal and fee required by 37 CFR 41.20(b)(1), has been received. Petitioners attention is directed to 37 CFR 41.31 Appeal to the Board and 37 CFR 41.37(a) Appeal Brief.

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]

By Facsimile: (571) 273-8300

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

Alicia Kelley
Petitions Examiner
Office of Petitions

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

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

MAILED

APR 29 2011

OFFICE OF PETITIONS

In re Application of	:	
Cabillic et al.	:	
Application No. 11/188,310	:	ON PETITION
Filed: July 25, 2005	:	
Attorney Docket No. TI-38572	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to file a reply within the meaning of 37 CFR 1.113 to the final Office action of February 19, 2010. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that prima facie places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is May 20, 2010. A Notice of Abandonment was mailed October 4, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal including fee of $540 and an Appeal Brief and fee of $540, (2) the petition fee of $1,620, and (3) an adequate statement of unintentional delay.

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

This application is being referred to Technology Center 2191 for further examination on the merits.

C. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

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

In re Patent No. 7,586,887	:	DECISION ON REQUEST FOR
TRACHEWSKY, JASON A.	:	RECONSIDERATION OF
Issue Date: September 8, 2009	:	PATENT TERM ADJUSTMENT
Application No. 11/188,767	:	
Filed: July 26, 2005	:	
Attorney Docket No. 20267US02	:	

This is a decision on the petition filed on May 21, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by four hundred thirty-five (435) days.

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

Patentee is given **TWO (2) MONTHS** from the mailing date of this decision to respond. No extensions of time will be granted under 37 CFR 1.136.

37 CFR 1.703(b) indicates that the period of adjustment under 37 CFR 1.702(b) ("over three year period") is the number of days, if any, in the period beginning on the day after the date that is three years after the actual filing date of the application and ending on the date a patent was issued. 35 U.S.C. 154(b)(1)(B). However, 37 CFR 1.703(b) also sets forth the limitations on patent term adjustment specified in 35 U.S.C.

154(b)(1)(B)(i) and (ii). Specifically, 37 CFR 1.703(b)(1) provides that the period of adjustment of the term of a patent shall not include the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued.

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the B delay period, the over three year period begins on July 27, 2008, and ends on April 16, 2009, the day before the RCE was filed, and is 264 (not 265) days. See 35 U.S.C. 154(b)(1)(B)(i).

Accordingly, the patent term adjustment remains four hundred thirty-four (434) days.

The Office acknowledges the submission of the $200.00 fee set forth in 37 CFR 1.18(e).

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

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

MAILED

SEP 07 2010

OFFICE OF PETITIONS

In re Patent No. 7,646,703 :
Trachewsky et al. :
Issue Date: January 12, 2010 :
Application No. 11/188,771 : DECISION ON REQUEST FOR
Filed: July 26, 2005 : RECONSIDERATION OF
Attorney Docket No. 20230US02 : PATENT TERM ADJUSTMENT
Title: BACKWARD-COMPATIBLE LONG :
TRAINING SEQUENCES FOR WIRELESS :
COMMUNICATION NETWORKS :

This is a decision on the "REQUEST FOR RECONSIDERATION OF DECISION ON REQUEST ROR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF WYETH" filed on June 7, 2010. Patentees request a patent term adjustment of 1110, instead of the current patent term of 1107 days. The petition was filed within two months of the decision by the Office mailed on May 5, 2010.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand one hundred ten (1,110) days is **DISMISSED.**

Patentees dispute the 97-day reduction under 37 CFR 1.704(b) for applicants taking in excess of three months in filing a response on November 11, 2005. Patentees state that there was no delay because the three month reply period fell on a holiday applicants.

Patentees' argument is untimely. Issues that should have been raised on application for patent term adjustment under 37 CFR 1.705(b) are untimely if first raised on request for reconsideration under 37 CFR 1.705(d). Issues under 37 CFR 1.705(d) are those tied to the revised determination calculated after the mailing of the notice of allowance. As such challenges to calculations determined prior to the

notice of allowance (and reflected in the determination sent with the notice of allowance) are untimely when first presented under 1.705(d). Thus, Patentees' request for reconsideration of said 97-day reduction is dismissed as untimely.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand one hundred seven (1,107)** days.

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

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

Anthony Knight
Director
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,646,703 B2

DATED : January 12, 2010

INVENTOR(S) : Trachewsky et al.

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

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by (903) days

Delete the phrase "by 903 days" and insert – by 1107 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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JOHN R. BENEFIEL
525 Lewis Street
BIRMINGHAM MI 48009

MAILED

SEP 14 2010

OFFICE OF PETITIONS

In re Application of	:	
Richard W. Kauppila	:	
Application No. 11/189,040	:	DECISION ON PETITION
Filed: July 25, 2005	:	
Attorney Docket No. **KAU-115**	:	

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 submit formal drawings on or before July 7, 2010, as required by the Notice of Allowability, mailed April 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 corrected formal drawings , (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

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

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

/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

Kilpatrick Townsend & Stockton LLP
Adobe Systems, Inc. 58083
1100 Peachtree Street
Suite 2800
Atlanta GA 30309-4530

MAILED

JUN 10 2011

OFFICE OF PETITIONS

In re Patent No. 7,827,481	:	DECISION ON REQUEST
Greenfield, et al.	:	FOR
Issue Date: November 2, 2010	:	RECONSIDERATION OF
Application No. 11/189,094	:	PATENT TERM ADJUSTMENT
Filed: July 25, 2005	:	and
Atty Docket No. 58083-375145(M113)	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on December 29, 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 reflected as one thousand, one hundred and ninety (1,190) days, from one thousand, one hundred and twenty (1,120) 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 and thirty-eight (1,038) days is **GRANTED to the extent indicated herein.**[1]

[1] The period of overlap between the "A" delay and the "B" delay is 82 days which was stated by patentees in the petition, but not entered by the Office in the revised patent term adjustment calculation. It is noted that, in this case where a Request for Continued Examination was filed, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A) is period from the filing date of the application to the day before the date the Request for Continued Examination was filed. It is further noted that "A" delays and "B" delays overlap only if such delays occur on the same calendar day. A review of the record reveals that the relevant periods of "A" delay began July 26, 2008, and ended October 15, 2008. The relevant period of "B" delay began July 26, 2008, and ended October 15, 2008. Thus, the period of overlap between the "A" delay and the "B" delay is 82 days.

Patentees now file this petition and assert that it is improper for the USPTO to exclude from the "B" delay

adjustment under 35 U.S.C. 154(b)(1)(B) the period from the filing of a Notice of Appeal to either the filing of a Request for Continued Examination, Office action under 35 USC 132 or Notice of Allowance, or a decision by the Board of Patent Appeals and Interferences appellate review period that was excluded from the "B".

Pursuant to 35 U.S.C. § 154(B)(ii), the Office is required to reduce the three-year application pendency guarantee by "any time consumed by appellate review by the Board of Patent Appeals and Interferences." As such, the Office is required to reduce any accorded "B" delay by the entire 152 days which were consumed by Appellate review.

It follows that the decision to extend or adjust the patent term adjustment by one thousand, thirty-eight (1,038) days is in accordance with Wyeth v. Kappos, 591 F.3d 1364 (Fed. Cir. 2010), as interpreted by the United States Court of Appeals for the Federal Circuit.

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

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, thirty-eight (1,038)** days (751 days of "A" delay + 369 days "B" delay - 82 days of overlap - 0 days of applicant delay).

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 : 7,827,481B1

DATED : Nov. 2, 2010

INVENTOR(S) : Greenfield 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 (1,120) days

Delete the phrase "by 1,120 days" and insert – by 1,038 days--

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 12/18/11

TO SPE OF : ART UNIT 1631

SUBJECT : Request for Certificate of Correction for Appl. No.: 11189394 Patent No.: 8060315

CofC mailroom date: 12/06/11

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Note: **Please check Claims 2**
Should the changes to the claim be approved?

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

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

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

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

Comments: _____

Wayne A Young — 1631

SPE — **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

MAILED
JUN 28 2011
OFFICE OF PETITIONS

In re Patent No. 7,272,483	:	
Issue Date: September 18, 2007	:	
Boenker et al.	:	DECISION ON
Application No. 11/189,506	:	PETITION
Filed: July 26, 2005	:	
Atty Docket No. 37079.7	:	

This is in response to the paper styled "PETITION TO REMOVE INCORRECT MAINTENANCE PAYMENT FROM APPLICATION NO. 7,282,483, filed May 18, 2011, requesting refund of a maintenance fee payment made in the wrong patent.

The petition is **dismissed**.

Petitioner is given **TWO (2) MONTHS** from the mailing date of this decision to file a written response. This period is not extendable. See 37 CFR 1.181(f).

BACKGROUND

+The above-identified patent issued on September 18, 2007. The window for paying the 3 ½ year maintenance fee extended from September 18, 2010 through March 18, 2011 without surcharge, and from March 19, 2011 through September 18, 2011 with surcharge. The maintenance fee and surcharge within the 6 month grace period was timely paid in this patent (7,272,483) on May 9, 2011.

Patentee states that, on May 9, 2011, they unintentionally made a typographical error and paid maintenance fees for Patent No. 7,282,483 (Serial No. 09/898,234). Patentee requests that the maintenance fees in the amount of $1,110 be removed from Patent No. 7,282,483 and a refund in the same amount be reimbursed to Deposit Account No. 08-1394.

It is noted that the 7,282,483 patent issued on October 16, 2007 and thus, the window for paying the first maintenance fee with surcharge within the 6 month grace period was open on May 9, 2011. Accordingly, the fee was accepted and the 7,282,483 patent has remained in force.

OPINION

Pursuant to 37 CFR § 1.366(a), the patentee or any person or organization may pay maintenance fees and any necessary surcharges on behalf of a patentee. Authorization by the patentee need not be filed in the Patent and Trademark Office to pay maintenance fees and any necessary surcharges on behalf of the patentee. 37 CFR § 1.366(c) only requires that in submitting maintenance fees and any necessary surcharges, identification of the patents for which maintenance fees are being paid must include the patent number, and the application number of the United States application for the patent on which the maintenance fee is being paid.

With respect to refunding maintenance fees and surcharges, 37 CFR § 1.366(g) provides that maintenance fees and surcharges relating thereto will not be refunded except in accordance with §§ 1.26 and 1.28(a). As 37 CFR 1.28(a) is only applicable to situations where small entity status is later established, 37 CFR 1.28(a) is not applicable to this situation. 37 CFR 1.26 implements the statute, 35 U.S.C. 42(d), which provides that the Director may refund any fee paid by mistake or any amount paid in excess of that required. 37 CFR 1.26 provides, in pertinent part, that:

> a) The Director may refund any fee paid by mistake or in excess of that required. A change of purpose after the payment of a fee, such as when a party desires to withdraw a patent filing for which the fee was paid, including an application, an appeal, or a request for an oral hearing, will not entitle a party to a refund of such fee. …

Moreover, as stated in MPEP 607.02:

> Under 35 U.S.C. 42(d) and 37 CFR 1.26, the Office may refund: (1) a fee paid by mistake (e.g., fee paid when no fee is required); or (2) any fee paid in excess of the amount of fee that is required. See Ex parte Grady, 59 USPQ 276, 277 (Comm'r Pat. 1943) (the statutory authorization for the refund of fees under the "by mistake" clause is applicable only to a mistake relating to the fee payment). When an applicant or patentee takes an action "by mistake" (e.g., files an application or maintains a patent in force "by mistake"), the submission of fees required to take that action (e.g., a filing fee submitted with such application or a maintenance fee submitted for such patent) is not a "fee paid by mistake" within the meaning of 35 U.S.C. 42(d).

The fee was not paid by mistake or in excess of the amount of fee that is required. The fee was due and paid in the amount required. The payment of the fee in the wrong patent is not refundable under 35 U.S.C. 42(d) and 37 CFR 1.26.

Otherwise, relief for errors in paying the maintenance fee are by way of petition under 37 CFR 1.377. Such relief is not appropriate on the facts of the error provided on petition. Patentee states that he intended to pay the fees due in this patent and through error identified the wrong patent number and application number. As stated in MPEP 2580, a petition under 37 CFR 1.377 would not be appropriate where the patentee paid a maintenance fee on one patent when the patentee intended to pay the maintenance fee on a different patent but through error identified the wrong patent number and application number.

It is patentee's responsibility to verify that the payment is directed to the patent number and application number for the patent which patentee actually intends to maintain in force. In the absence of such information (at least one correct mandatory identifier), the Office cannot conclude that, based on the information present at the time the maintenance fee payment was received, the patent to which the payment was applied, (i.e. U.S. Patent No. 7,282,483) was not the patent which patentee intended to maintain in force, or that the maintenance fee was applied to the aforementioned patent in error.

CONCLUSION

In view thereof, the request for refund of the maintenance fee and surcharge 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 fax: (571) 273-8300
ATTN: Office of Petitions

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

OCCHIUTI ROHLICEK & TSAO, LLP
10 FAWCETT STREET
CAMBRIDGE MA 02138

MAILED

MAR 23 2011

OFFICE OF PETITIONS

In re Patent No. 7,083,935 :
Issue Date: August 1, 2006 :
Application No. 11/189,521 : ON PETITION
Filed: July 26, 2005 :
Attorney Docket No. 58817-002002 :

This is a decision on the petition under 37 CFR 1.378(b), filed February10, 2011, to accept the unavoidably delayed payment of a maintenance fee for the above-identified patent. This petition will be treated under 37 CFR 1.377.

The petition under 37 CFR 1.377 is **GRANTED**.

Petitioner contends that a notification of loss of entitlement under 37 CFR 1.28(c) was submitted on January 26, 2010. The request also authorized the payment of the 3.5 year maintenance fee.

In submitting maintenance fees and any necessary surcharges, identification of the patents for which maintenance fees are being paid must include a patent number and an application number. See 37 CFR 1.366(c).

A maintenance fee intended for this patent was timely submitted under 37 CFR 1.362(e). However, the payment was not processed.

This decision constitutes the fee acceptance notification for the 3.5 year maintenance fee.

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

MEDTRONIC VASCULAR, INC.
IP LEGAL DEPARTMENT
3576 UNOCAL PLACE
SANTA ROSA, CA 95403

MAILED

NOV 02 2011

OFFICE OF PETITIONS

In re Application of :
Mark Deem, et al. :
Application No.: 11/189,563 :
Filed: July 25, 2005 :
Attorney Docket No.: 578568007US :

ON PETITION

This is a decision on the petition, filed November 1, 2011, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on September 22, 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 3766 for further processing of the request for continued examination and for consideration of the concurrently filed Information Disclosure Statement.

/SDB/
Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: AARON J. POLEDNA
PERKINS COIE LLP
P.O. BOX 1247
SEATTLE, WA 98111-1247

[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

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

MARGER JOHNSON & MCCOLLOM, P.C.
210 SW MORRISON STREET, SUITE 400
PORTLAND, OR 97204

Mail Date: 08/03/2010

Applicant	: Earl T. Cohen	: DECISION ON REQUEST FOR
Patent Number	: 7657654	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/189,584	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/25/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **888** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

WIGGIN AND DANA LLP
ATTENTION: PATENT DOCKETING
ONE CENTURY TOWER, P.O. BOX 1832
NEW HAVEN CT 06508-1832

MAILED

JUN 21 2011

OFFICE OF PETITIONS

In re Application of	:	
Hangeland et al.	:	
Application No. 11/189,654	:	LETTER REGARDING
Filed: July 26, 2005	:	FEE DEFICIENCY PAYMENT
Atty Docket No. 102241-201	:	

This is in response to the letter filed May 3, 2011, which is properly treated as a notification of loss of entitlement to small entity status.

Your notification of a loss of entitlement to small entity status and fee deficiency submission under 37 CFR 1.28 is **NOT ACCEPTED**.

The letter was filed by Dennemeyer & Co., who is not the assignee, a registered practitioner or the inventor, and as such, is not a proper party to assert loss of entitlement to small entity status. The petition includes a letter of assertion; however, there is no 3.73(b) statement to establish that the person signing the letter is authorized to sign on behalf of the assignee.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

WIGGIN AND DANA LLP
ATTENTION: PATENT DOCKETING
ONE CENTURY TOWER, P.O. BOX 1832
NEW HAVEN CT 06508-1832

MAILED
AUG 22 2011
OFFICE OF PETITIONS

In re Application of :
Hangeland et al. :
Application No. 11/189,654 : LETTER REGARDING
Filed: July 26, 2005 : FEE DEFICIENCY PAYMENT
Atty Docket No. 102241-201 :

This is in response to STATEMENT REGARDING CHANGE OF ENTITY STATUS filed July 14, 2011, which is properly treated as a notification of loss of entitlement to small entity status. By decision mailed June 21, 2011, an earlier statement was not accepted on the basis that it was not established to be filed by a proper party.

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.

The statement filed July 14, 2011 is signed by an attorney of record. Patentee previously supplied an itemization and payment of $490 for the deficiency in payment of the first maintenance fee.

Your notification of a loss of entitlement to small entity status and fee deficiency submission under 37 CFR 1.28 is now **ACCEPTED**.

Payment of the deficiency has been treated under § 1.27(g)(2) as a notification of a loss of entitlement to small entity status.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

MAILED

JAN 10 2011

OFFICE OF PETITIONS

In re Application of :
Stephani Aouba, et al. :
Application No. 11/189,822 :
Filed: July 27, 2005 :
Attorney Docket No. 063101-5002 :

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the request to withdraw as attorney of record under 37 CFR § 1.36, filed December 3, 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: **MICROMEM TECHNOLOGIES, INC.**
777 Bay Street, Suite 1910
Toronto, Ontario M5G 2E4
Canada

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):	Patent Number (if applicable):
11/189,912	
First Named Inventor:	**Title of Invention:**
Komuro	RARE EARTH MAGNET

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Signature /Alan E. Schiavelli/	Date 5/20/11
Name (Print/Typed) Alan E. Schiavelli	Practitioner Registration Number 32,087

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

☐ *Total of _____ forms are submitted.

Privacy Act Statement

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON VA 22209-3873

MAILED

MAY 24 2011

OFFICE OF PETITIONS

In re Application of :
Komuro et al. :
Application No. 11/189,912 : DECISION ON PETITION
Filed: July 27, 2005 :
Attorney Docket No. 520.45277X00 :

This is a decision on the request filed May 20, 2011, seeking relief under the provisions of "Relief Available to Patent and Trademark Applicants, Patentees and Trademark Owners Affected by the Catastrophic Events of March 11, 2011 in Japan," 1365 Off. Gaz. Pat. Office 170 (April 19, 2011), ("OG Notice").

The request for relief is **DISMISSED**.

As set forth in the OG Notice, an Office action or notice will be re-mailed and the period for response will be restarted if:

(1) The patent application or reexamination proceeding is pending in the USPTO as of March 11, 2011, and a reply to an Office action (final, non-final, or other), a notice of allowance, or other Office notice is outstanding as of March 11, 2011;

(2) One or more inventors, an assignee or a correspondence address is in the area of Japan affected by the earthquake and resultant tsunami of March 11, 2011;

(3) The period for response has not yet expired; and

(4) Applicant requests relief. The request must be made by using the form PTO/SB/425 or be accompanied by a copy of the announcement.

The request must be made prior to expiration of the statutory or non-statutory time period set for response and 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). The use of the form PTO/SB/425 or the inclusion of a copy of the announcement will be treated as a representation that the need for the reissuance of the

Office communication was due to the effects of the earthquake and resulting tsunami of March 11, 2011.

The instant request is dismissed since it lacks item(s) (1). Applicant is requesting a "reissuance of the Office Action of Nonprovisional Application mailed on March 17, 2011." However, a response to the Office action in question or other Office communication was not outstanding as of March 11, 2011, as required by the OG Notice. Accordingly, the request is dismissed.

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

By FAX: (571) 273-8300

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-47751.

All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

MAILED

MAY 25 2011

OFFICE OF PETITIONS

In re Application of :
John B. Simpson :
Application No. 11/190,049 : DECISION ON PETITION
Filed: July 27, 2005 : TO WITHDRAW
Attorney Docket No.: 34668-502F01US : 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

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 25 2011
OFFICE OF PETITIONS

In re Application of	:	
John B. Simpson	:	
Application No. 11/190,049	:	DECISION ON PETITION
Filed: July 27, 2005	:	TO WITHDRAW
Attorney Docket No. 34668-502F01US	:	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 12, 2011.

The request is **APPROVED**.

The request was signed by Fred C. Hernandez on behalf of the practitioners of record associated with Customer Number 23980.

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

All future correspondence will be directed to inventor John B. Simpson at the address indicated below.

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

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: John B. Simpson
3033 Campus Drive
Plymouth, MN 55441

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/190,049	07/27/2005	John B. Simpson	34668-502F01US

CONFIRMATION NO. 1440

23980
MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO, P.C
One Financial Center
BOSTON, MA 02111

POWER OF ATTORNEY NOTICE

OC000000048863441

Date Mailed: 07/25/2011

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/12/2011.

- 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.

/idingle/

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

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/190,049	07/27/2005	John B. Simpson	34668-502F01US

CONFIRMATION NO. 1440

John B. Simpson
3033 Campus Drive
Plymouth, MN 55441

POA ACCEPTANCE LETTER

OC000000048863448

Date Mailed: 07/25/2011

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/12/2011.

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.

/idingle/

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

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FEB 09 2012

OFFICE OF PETITIONS

MUELLER AND SMITH, LPA
MUELLER-SMITH BUILDING
7700 RIVERS EDGE DRIVE
COLUMBUS, OH 43235

In re Application of :
Doddabele L. Madhavi, et al. :
Application No. 11/190,094 : ON PETITION
Filed: July 26, 2005 :
Attorney Docket No.: BIO 2-024 :

This is a decision in response to the petition, filed November 23, 2011, under the provisions of 37 CFR 1.181 (no fee) to withdraw the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

A review of the record reveals that a final Office action was mailed April 17, 2009, which set a shortened statutory period for reply of three (3) months. On October 15, 2009, applicant submitted a Request for Continued Examination (RCE) Transmittal, a 1-page document entitled Amendment and Response, and an appropriate petition for extension of time. On May 12, 2010, a Notice of Improper Request for Continued Examination was mailed. Thereafter, on September 22, 2010, a Notice of Abandonment was mailed for a failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action mailed April 17, 2009.

In response, on November 23, 2011, the present petition was filed, wherein petitioner states that the abandonment should be withdrawn. Petitioner argues that the improper RCE notice should not have issued in view of a Rule 16 amendment filed October 15, 2009. Petitioner explains that the RCE request included "the box checked requesting 'any amendments filed after the final Office action may be considered as a submission,'" and, therefore, the Rule 16 amendment was requested to be considered as the "submission".

Petitioner's argument is not well taken. A review of the record failed to uncover a Rule 16 amendment after the final Office action. The "Amendment and Response" filed on October 15, 2009 consisted of a copy of page 1 of the cover page of the amendment filed on November 5, 2008, which has already been entered. Consequently, the "Amendment and Response" filed October 15, 2009 is not considered as a proper submission under 37 CFR 1.114.

Petitioner is reminded that an acceptable reply to the final Office action would have been a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and

submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). In this case applicant filed an improper RCE request.

Pursuant to 35 U.S.C. 133, "[u]pon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the application, or within such shorter time, not less than thirty days, as fixed by the Director in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to satisfactory of the Director that such delay was unavoidable.

The evidence of record does not demonstrate that such delay in filing an acceptable response to the final Office action of April 17, 2009 was unavoidable within the meaning of the rule. Without an acceptable reply, the application became abandoned by operation of law on October 18, 2009. Accordingly, the abandonment will not be withdrawn.

Petitioner is 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).

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).

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

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 delivered through one of the following mediums:

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

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

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

By Internet: EFS-Web[1]

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

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

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CLEMENTS BERNARD PLLC
1901 ROXBOROUGH ROAD
SUITE 250
CHARLOTTE NC 28211

MAILED

JUL 11 2011

OFFICE OF PETITIONS

In re Application of
Chris Barnard
Application No. 11/190,109
Filed: July 27, 2005
Attorney Docket No. 10.0703

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b)[1], filed June 24, 2011 to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned March 11, 2011 for failure to timely file a reply to the final Office action mailed December 10, 2010. Accordingly, a Notice of Abandonment was mailed June 23, 2011.

Petitioner has submitted a Request for Continued Examination (RCE) and an amendment as the submission required under 37 CFR 1.114.

This matter is being referred to Technology Center 2613 for processing of the RCE.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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[1]Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The 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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Timothy H. Van Dyke
390 No. Orange Avenue
Suite 2500
Orlando, FL 32801

MAILED

MAR 21 2011

OFFICE OF PETITIONS

In re Patent of Daniell :
Patent No. 7,767,885 :
Issue Date: August 3, 2010 : Letter
Application No. 11/190,122 :
Filing Date: July 25, 2005 :
Attorney Docket No. 10669-036 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28(c) filed November 16, 2010.

The deficiency payment of $755 is hereby accepted.

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

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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DOUGLAS J. HURA, ESQUIRE
DENTSPLY INTERNATIONAL INC.
570 WEST COLLEGE AVENUE
P.O. BOX 872
YORK, PA 17405-0872

MAILED

AUG 3 0 2010

OFFICE OF PETITIONS

In re Application of :
Charles J. Schultz :
Application No. 11/190,148 : ON PETITION
Filed: July 26, 2005 :
Attorney Docket No.: GAC-1977 :

This is a decision on the petition under 37 CFR 1.137(b), filed June 22, 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 November 24, 2008, 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 February 25, 2009. A Notice of Abandonment was subsequently mailed on June 22, 2009. On June 22, 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) and fee of $810, (2) the petition fee of $1,620, and (3) an adequate statement of unintentional delay.

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 response has expired. Since, no extension of time fees are due on a petition for revival, the $1,110 extension fees included with this petition will be credited to counsel's deposit account.

This application is being referred to Technology Center AU 3732 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment filed 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 5/31/11

TO SPE OF : ART UNIT 1641

SUBJECT : Request for Certificate of Correction for Appl. No.: 11190199 Patent No.: 7871573

CofC mailroom date: 5/25/11

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Note: Duplicate second listing of Hong, Bin in Other Publication

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: APPROVED

/MARK SHIBUYA/, SPE 1641

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

SPE Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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Law Office of Scott C Harris Inc
PO Box 1389
Rancho Santa Fe CA 92067

MAILED
MAR 22 2011
OFFICE OF PETITIONS

In re Application of	:	
James Bornhorst, et al.	:	
Application No. 11/190,494	:	DECISION ON PETITION
Filed: July 26, 2005	:	
Attorney Docket No. PRG-111	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 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 Restriction Requirement, mailed June 24, 2010, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on July 25, 2011. The Notice of Abandonment was mailed February 2, 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 election, (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 2838 for appropriate action by the Examiner in the normal course of business on the reply received.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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HOGAN LOVELLS US LLP
ONE TABOR CENTER, SUITE 1500
1200 SEVENTEENTH ST
DENVER, CO 80202

MAILED

JUN 27 2011

OFFICE OF PETITIONS

In re Application of
Wade A. Bowe, et al.
Application No. 11/190,550
Filed: July 27, 2005
Attorney Docket No. 026484-000100US

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed April 9, 2011, 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 **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on July 25, 2006. 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 August 25, 2011 previously mailed May 19, 2011.

Telephone inquiries concerning this decision should be directed to April M. Wise at (571) 272-1642.

This application is being referred back to the Technology Center Art Unit 1797 for examination in due course.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/190,633	07/26/2005	Keith R. McNally	1004293.006US 31254003US2	5285

7590 08/18/2011

Mazzarella Caldarelli LLP
500 West C Street
Suite 700
San Diego, CA 92101

EXAMINER	
WU, RUTAO	

ART UNIT	PAPER NUMBER
3628	

MAIL DATE	DELIVERY MODE
08/18/2011	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Mazzarella Caldarelli LLP
500 West C Street
Suite 700
San Diego, CA 92101

In re Application of: Keith R. McNally	:	**PETITION TO REVIEW FINAL REJECTION AND EXAMINER'S ANSWER UNDER 37 C.F.R. 1.181**
Application No. 11/190,633	:	
Filed: July 26, 2005	:	
Attorney Docket No.: 1004293.006US 31254003US2	:	
For: INFORMATION MANAGEMENT AND SYNCHRONOUS COMMUNICATIONS SYSTEM	:	

This is in response to applicant's Petition to Technology Center Director filed on June 23, 2011, to request that the February 15, 2011 Final Rejection and the June 6, 2011 Examiner's Answer be subject to review by the Technology Center Director due to "new interpretations or applications of the existing patent law" and "unusual questions of practice" therein.

Applicant has also filed a second petition on June 23, 2001 addressed to the Director of the USPTO. The Director may delegate to appropriate Patent and Trademark Office officials the determination of petitions, 37 CFR 1.181(g). Per MPEP 1002.02(c), this petition is to be decided by the Technology Center Director.

The petition is **DISMISSED.**

Petitioner indicates that M.P.E.P. § 1207.02 provides, "if an examiner's answer is believed to contain a new interpretation or application of the existing patent law, the examiner's answer, application file, and an 'explanatory memorandum' should be forwarded to the TC Director for consideration." MPEP 1003 further provides that an Examiner's Answer containing a new interpretation of law, as well as, "all unusual questions of practice" may be referred to the Technology Center Director.

Petitioner further states it is believed that there are many 'unusual questions of practice' raised in the Examiner's Answer to the Appellant's Appeal Brief (and, before that, in the Examiner's February 15, 2001 Office Action containing final rejections of all pending claims) and that most of these 'unusual' aspects also reflect either a 'new interpretation' and/or a 'new application' of applicable law.

To support the allegations of "new interpretations or applications of the existing patent law" and "unusual questions of practice" presented in the Examiner's Answer, Petitioner provides the following reasoning:

A. Examiner has never established a *Prima Facie* case of obviousness

B. Claims should be allowed based on certain claim limitations admittedly not taught in the references by the examiner.

C. Examiner's improper combination of references without explanation

D. Examiner's disregard to specific words of the claims, specification and drawings and substitution of his own "concept" of the invention, failing to apply all claim terms, ignoring appellant's rebuttal of examiner's interpretation of claim terms, erroneous "self-invented" definition of claim terms

E. Examiner's combinations of references violate *In re Ratti* and *In re Gordon*

F. Examiner's failure to follow established patent laws, by failing to consider all rebuttal evidence in his Final Rejection

G. Examiner's error in his Answer's denial of applicant's traverse of the "official notice" rejection

H. Examiner's Answer essentially interposes a Brand-New section 102-Based rejection of claims.

MPEP section 1201 states that the United States Patent and Trademark Office (Office) in administering the Patent Laws makes many decisions of a substantive nature which the applicant may feel deny him or her the patent protection to which he or she is entitled. The differences of opinion on such matters can be justly resolved only by prescribing and following judicial procedures. Where the differences of opinion concern the denial of patent claims because of prior art or other patentability issues, the questions thereby raised are said to relate to the merits, and appeal procedure within the Office and to the courts has long been provided by statute (35 U.S.C. 134)

Thus, the application of the references to support the rejection of the claims by the examiner in this application and petitioner's arguments identified above (A – H) are matters appealable to the Board of Patent Appeals and Interferences.

Petitioner also states that the Examiner's Answer asserts numerous new grounds of rejection, despite MPEP's admonition that they should be "Rare". Petitioner has also indicated that the examiner has failed to consider element "b" of claim 77.

According to MPEP 1207.03(III), there is no new ground of rejection when the basic thrust of the rejection remains the same such that an appellant has been given a fair

opportunity to react to the rejection. See In re Kronig, 539 F.2d 1300, 1302-03, 190 USPQ 425, 426-27 (CCPA 1976). Where the statutory basis for the rejection remains the same, and the evidence relied upon in support of the rejection remains the same, a change in the discussion of, or rationale in support of, the rejection does not necessarily constitute a new grounds of rejection.

A review of the Examiner's Answer and Final Rejection reveals that there exists no new grounds of rejection, particularly with regard to examiner's rejection of element "b" in claim 77 and similar language in independent claim 97. The rejection of these claims in the Final Rejection and repeated in the Examiner's Answer are based upon the same evidence found in prior art references to Rose et al (U.S. Patent 7,069,228), Sirola et al (U.S. Patent 6,415,138) and Hall et al (U.S. Patent 6,356,543). In the Examiner's Answer, examiner has further discussed the rationale in support of this rejection on pages 19 and 20. In view of these findings, it is determined that no new grounds of rejection exists in the Examiner's Answer mailed on June 6, 2001 and, as such, the Examiner's Answer will remain unchanged.

Regarding applicant's petition to the Director of the USPTO, MPEP 1001.01 and 37 CFR 1.181(g) sets forth that the Director may delegate to appropriate Patent and Trademark Office officials the determination of petitions. Furthermore, MPEP 1002.02 and 1002.02(c)(3) states that petitions invoking the supervisory authority of the Director of the USPTO under 37 CFR 1.181 involving any ex parte action or requirement in a patent application by the examiner which is not subject to appeal (37 CFR 1.191) and not otherwise provided for will be delegated to the Technology Center Director. MPEP 1003 also states that matters regarding an Examiner's answer containing a new interpretation of law and all unusual questions of practice are referred to the Technology Center Directors.

In this petition, petitioner essentially repeats the same arguments/reasons as stated above with respect to the petition filed with the Technology Center Director, specifically requesting that the Examiner's Answer be vacated and a Notice of Allowance be issued.

As stated above, MPEP section 1201 states that the United States Patent and Trademark Office (Office) in administering the Patent Laws makes many decisions of a substantive nature which the applicant may feel deny him or her the patent protection to which he or she is entitled. The differences of opinion on such matters can be justly resolved only by prescribing and following judicial procedures. Where the differences of opinion concern the denial of patent claims because of prior art or other patentability issues, the questions thereby raised are said to relate to the merits, and appeal procedure within the Office and to the courts has long been provided by statute (35 U.S.C. 134)

Thus, the application of the references to support the rejection of the claims by the examiner in this application and petitioner's arguments identified above (A – H) are matters appealable to the Board of Patent Appeals and Interferences.

Petitioner once again states that the Examiner's Answer asserts numerous new grounds of rejection, despite MPEP's admonition that they should be "Rare". Petitioner again has indicated that the examiner has failed to consider element "b" of claim 77.

According to MPEP 1207.03(III), there is no new ground of rejection when the basic thrust of the rejection remains the same such that an appellant has been given a fair opportunity to react to the rejection. See In re Kronig, 539 F.2d 1300, 1302-03, 190 USPQ 425, 426-27 (CCPA 1976). Where the statutory basis for the rejection remains the same, and the evidence relied upon in support of the rejection remains the same, a change in the discussion of, or rationale in support of, the rejection does not necessarily constitute a new grounds of rejection.

As stated above with respect to the petition addressed to the Technology Center Director, a review of the Examiner's Answer and Final Rejection reveals that there exists no new grounds of rejection, particularly with regard to examiner's rejection of element "b" in claim 77 and similar language in independent claim 97. The rejection of these claims in the Final Rejection and repeated in the Examiner's Answer are based upon the same evidence found in prior art references to Rose et al (U.S. Patent 7,069,228), Sirola et al (U.S. Patent 6,415,138) and Hall et al (U.S. Patent 6,356,543). In the Examiner's Answer, examiner has further discussed the rationale in support of this rejection on pages 19 and 20. In view of these findings, it is determined that no new grounds of rejection exists in the Examiner's Answer mailed on June 6, 2001 and, as such, the Examiner's Answer will remain unchanged.

If applicant seeks to petition or request reconsideration of this decision, MPEP 1002.02(b)(15) states that petitions regarding the decisions of the Technology Center Directors are decided by the Office of Deputy Commissioner for Patent Examination Policy. Applicant must specifically request "reconsideration of TC Director decision" in order for the petition for reconsideration to be properly forwarded to the appropriate authority.

Summary:
Petition to the TC Director - ***Petition Dismissed***
Petition to the Director of the USPTO – ***Petition Dismissed***

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

JWH/LM: 8/8/2011

TL

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/190,633	07/26/2005	Keith R. McNally	1004293.006US 31254003US2	5285

7590 08/29/2011

Mazzarella Caldarelli LLP
500 West C Street
Suite 700
San Diego, CA 92101

EXAMINER	
WU, RUTAO	

ART UNIT	PAPER NUMBER
3628	

MAIL DATE	DELIVERY MODE
08/29/2011	PAPER

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

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

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AUG 2 9 2011

Mazzarella Caldarelli LLP
500 West C Street
Suite 700
San Diego, CA 92101

In re Application of: Keith R. McNally :
Application No. 11/190,633 :
Filed: July 26, 2005 :
Attorney Docket No.: 1004293.006US 31254003US2 :
For: INFORMATION MANAGEMENT AND SYNCHRONOUS COMMUNICATIONS SYSTEM :

PETITION TO REVIEW FINAL REJECTION AND EXAMINER'S ANSWER UNDER 37 C.F.R. 1.181

This is in response to applicant's Petition to Technology Center Director filed on June 23, 2011, to request that the February 15, 2011 Final Rejection and the June 6, 2011 Examiner's Answer be subject to review by the Technology Center Director due to "new interpretations or applications of the existing patent law" and "unusual questions of practice" therein.

Applicant has also filed a second petition on June 23, 2001 addressed to the Director of the USPTO. The Director may delegate to appropriate Patent and Trademark Office officials the determination of petitions, 37 CFR 1.181(g). Per MPEP 1002.02(c), this petition is to be decided by the Technology Center Director.

The petition is **DISMISSED.**

Petitioner indicates that M.P.E.P. § 1207.02 provides, "if an examiner's answer is believed to contain a new interpretation or application of the existing patent law, the examiner's answer, application file, and an 'explanatory memorandum' should be forwarded to the TC Director for consideration." MPEP 1003 further provides that an Examiner's Answer containing a new interpretation of law, as well as, "all unusual questions of practice" may be referred to the Technology Center Director.

Petitioner further states it is believed that there are many 'unusual questions of practice' raised in the Examiner's Answer to the Appellant's Appeal Brief (and, before that, in the Examiner's February 15, 2001 Office Action containing final rejections of all pending claims) and that most of these 'unusual' aspects also reflect either a 'new interpretation' and/or a 'new application' of applicable law.

To support the allegations of "new interpretations or applications of the existing patent law" and "unusual questions of practice" presented in the Examiner's Answer, Petitioner provides the following reasoning:

A. Examiner has never established a *Prima Facie* case of obviousness

B. Claims should be allowed based on certain claim limitations admittedly not taught in the references by the examiner.

C. Examiner's improper combination of references without explanation

D. Examiner's disregard to specific words of the claims, specification and drawings and substitution of his own "concept" of the invention, failing to apply all claim terms, ignoring appellant's rebuttal of examiner's interpretation of claim terms, erroneous "self-invented" definition of claim terms

E. Examiner's combinations of references violate *In re Ratti* and *In re Gordon*

F. Examiner's failure to follow established patent laws, by failing to consider all rebuttal evidence in his Final Rejection

G. Examiner's error in his Answer's denial of applicant's traverse of the "official notice" rejection

H. Examiner's Answer essentially interposes a Brand-New section 102-Based rejection of claims.

MPEP section 1201 states that the United States Patent and Trademark Office (Office) in administering the Patent Laws makes many decisions of a substantive nature which the applicant may feel deny him or her the patent protection to which he or she is entitled. The differences of opinion on such matters can be justly resolved only by prescribing and following judicial procedures. Where the differences of opinion concern the denial of patent claims because of prior art or other patentability issues, the questions thereby raised are said to relate to the merits, and appeal procedure within the Office and to the courts has long been provided by statute (35 U.S.C. 134)

Thus, the application of the references to support the rejection of the claims by the examiner in this application and petitioner's arguments identified above (A – H) are matters appealable to the Board of Patent Appeals and Interferences.

Petitioner also states that the Examiner's Answer asserts numerous new grounds of rejection, despite MPEP's admonition that they should be "Rare". Petitioner has also indicated that the examiner has failed to consider element "b" of claim 77.

According to MPEP 1207.03(III), there is no new ground of rejection when the basic thrust of the rejection remains the same such that an appellant has been given a fair

opportunity to react to the rejection. See In re Kronig, 539 F.2d 1300, 1302-03, 190 USPQ 425, 426-27 (CCPA 1976). Where the statutory basis for the rejection remains the same, and the evidence relied upon in support of the rejection remains the same, a change in the discussion of, or rationale in support of, the rejection does not necessarily constitute a new grounds of rejection.

A review of the Examiner's Answer and Final Rejection reveals that there exists no new grounds of rejection, particularly with regard to examiner's rejection of element "b" in claim 77 and similar language in independent claim 97. The rejection of these claims in the Final Rejection and repeated in the Examiner's Answer are based upon the same evidence found in prior art references to Rose et al (U.S. Patent 7,069,228), Sirola et al (U.S. Patent 6,415,138) and Hall et al (U.S. Patent 6,356,543). In the Examiner's Answer, examiner has further discussed the rationale in support of this rejection on pages 19 and 20. In view of these findings, it is determined that no new grounds of rejection exists in the Examiner's Answer mailed on June 6, 2001 and, as such, the Examiner's Answer will remain unchanged.

Regarding applicant's petition to the Director of the USPTO, MPEP 1001.01 and 37 CFR 1.181(g) sets forth that the Director may delegate to appropriate Patent and Trademark Office officials the determination of petitions. Furthermore, MPEP 1002.02 and 1002.02(c)(3) states that petitions invoking the supervisory authority of the Director of the USPTO under 37 CFR 1.181 involving any ex parte action or requirement in a patent application by the examiner which is not subject to appeal (37 CFR 1.191) and not otherwise provided for will be delegated to the Technology Center Director. MPEP 1003 also states that matters regarding an Examiner's answer containing a new interpretation of law and all unusual questions of practice are referred to the Technology Center Directors.

In this petition, petitioner essentially repeats the same arguments/reasons as stated above with respect to the petition filed with the Technology Center Director, specifically requesting that the Examiner's Answer be vacated and a Notice of Allowance be issued.

As stated above, MPEP section 1201 states that the United States Patent and Trademark Office (Office) in administering the Patent Laws makes many decisions of a substantive nature which the applicant may feel deny him or her the patent protection to which he or she is entitled. The differences of opinion on such matters can be justly resolved only by prescribing and following judicial procedures. Where the differences of opinion concern the denial of patent claims because of prior art or other patentability issues, the questions thereby raised are said to relate to the merits, and appeal procedure within the Office and to the courts has long been provided by statute (35 U.S.C. 134)

Thus, the application of the references to support the rejection of the claims by the examiner in this application and petitioner's arguments identified above (A – H) are matters appealable to the Board of Patent Appeals and Interferences.

Petitioner once again states that the Examiner's Answer asserts numerous new grounds of rejection, despite MPEP's admonition that they should be "Rare". Petitioner again has indicated that the examiner has failed to consider element "b" of claim 77.

According to MPEP 1207.03(III), there is no new ground of rejection when the basic thrust of the rejection remains the same such that an appellant has been given a fair opportunity to react to the rejection. See In re Kronig, 539 F.2d 1300, 1302-03, 190 USPQ 425, 426-27 (CCPA 1976). Where the statutory basis for the rejection remains the same, and the evidence relied upon in support of the rejection remains the same, a change in the discussion of, or rationale in support of, the rejection does not necessarily constitute a new grounds of rejection.

As stated above with respect to the petition addressed to the Technology Center Director, a review of the Examiner's Answer and Final Rejection reveals that there exists no new grounds of rejection, particularly with regard to examiner's rejection of element "b" in claim 77 and similar language in independent claim 97. The rejection of these claims in the Final Rejection and repeated in the Examiner's Answer are based upon the same evidence found in prior art references to Rose et al (U.S. Patent 7,069,228), Sirola et al (U.S. Patent 6,415,138) and Hall et al (U.S. Patent 6,356,543). In the Examiner's Answer, examiner has further discussed the rationale in support of this rejection on pages 19 and 20. In view of these findings, it is determined that no new grounds of rejection exists in the Examiner's Answer mailed on June 6, 2001 and, as such, the Examiner's Answer will remain unchanged.

If applicant seeks to petition or request reconsideration of this decision, MPEP 1002.02(b)(15) states that petitions regarding the decisions of the Technology Center Directors are decided by the Office of Deputy Commissioner for Patent Examination Policy. Applicant must specifically request "reconsideration of TC Director decision" in order for the petition for reconsideration to be properly forwarded to the appropriate authority.

Summary:
Petition to the TC Director - ***Petition Dismissed***
Petition to the Director of the USPTO – ***Petition Dismissed***

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

JWH/LM: 8/8/2011

TL

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Schwartz Law Firm, P.C.
SouthPark Towers
Suite 530
6100 Fairview Road
Charlotte NC 28210

MAILED
FEB 13 2012
OFFICE OF PETITIONS

In re Application of :
Detwiler et al. :
Application Number: 11/190,662 :
Filing or 371(c) Date: July 25, 2005 :
Attorney Docket Number: 308/1 :

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28(c), filed on January 12, 2012.

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(c) is hereby **ACCEPTED**.

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-3231.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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

MAILED
JUN 28 2011
OFFICE OF PETITIONS

In re Application of	:	
Mark S. Link	:	DECISION ON
Application No. 11/190,723	:	APPLICATION FOR
Filed: July 27, 2005	:	PATENT TERM ADJUSTMENT:
Attorney Docket No. 18475-512	:	

This is a decision on the "APPLICATION FOR ADJUSTMENT OF PATENT TERM UNDER 37 C.F.R. §1.705(b)" filed on June 7, 2011. Applicants request that the initial determination of Patent Term Adjustment for the above-identified patent be corrected from one thousand four hundred fifty (1450) days to one thousand four hundred thirty-one (1431) days.

The application for patent term adjustment patent is **GRANTED TO THE EXTENT INDICATED**.

The Office has updated the PALM and PAIR screens to reflect that the Patent Term Adjustment (PTA) at the time of the mailing of the Notice of Allowance is one thousand five hundred fifty-four (1554) days. A copy of the updated PALM screen, showing the updated determination, is enclosed.

On March 18, 2011, the Office mailed a Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application, stating that the Patent Term Adjustment to date was 1450 days (1469 days of Office delay and 19 days of applicant

delay). This application for patent term adjustment was timely filed with the payment of the issue fee.[1]
In the present petition, applicant asserts:

> This application is a participant in the USPTO's Enhanced First Action Interview Pilot Program, having met the necessary filing date and classification requirements. On December 11, 2009, Applicant submitted a Request for First Action Interview (Enhanced Pilot Program).
>
> On October 5, 2010, the Office issued a First Action Interview Pilot Program Pre-Interview Communication, setting a period for reply of the longer of one month or thirty days.
>
> On November 5, 2010, Applicant submitted an Applicant Initiated Interview Request Form ("Reply") in response to the October 5, 2010 First Action Interview Pilot Program Pre-Interview Communication. This Reply was submitted within one month of the October 5, 2010 mailing date of the First Action Interview Pilot Program Pre-Interview Communication.
>
> On December 13, 2010, Applicant submitted a Supplemental Information Disclosure Statement which qualified as a submission under 37 C.F.R. 1.704(c)(8). As this Supplemental Information Disclosure Statement was not expressly requested by the Examiner and was filed after the Reply had been filed, the period of adjustment begins on the day after the date the Reply was filed, *i.e.* November 6, 2010, and ends on the date that the other paper was filed, *i.e.* December 13, 2010, which is 38 days. Thus, in accordance with Applicant's duty of candor and good faith toward the Office, Applicant believes **38** days of Applicant delay should be applied.
>
> On December 29, 2010, the Office issued a First Action Interview Office Action Summary, responsive to Applicant's November 5, 2010 Reply and the interview conducted on December 16, 2010.

[1] PALM records indicate that the issue fee was paid on June 7, 2011.

> On January 24, 2011, Applicant submitted a Response to the First Action Interview Office Action Summary (the "Response"). Applicant believes that the Office incorrectly attributed **19** days of delay to Applicant under 37 C.F.R. § 1.704 to this Response. This Response was received within three months of the mailing date of the First Action Interview Office Action Summary, which was mailed on December 29, 2010. Accordingly, no reduction of adjustment of patent term should be applied in connection with this Response.

Petition, 06/07/11, pp. 1-2.

Initially, the Office notes that after reviewing the record, it appears that the determination for Office delay pursuant to 37 CFR 1.703(a)(1) is incorrect. Pursuant to 37 CFR 1.703(a)(1), the period of adjustment of patent term due to the failure of the Office to take action within a specified time frame is the sum of the following periods:

> (1) The number of days, if any, in the period beginning on the day after the date that is fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) or fulfilled the requirements of 35 U.S.C. 371 and ending on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first[.]

The Office notes that the First Action Interview Pilot Program Pre-Interview Communication, mailed October 5, 2010, is not an action under 35 U.S.C. 132.[2] Rather, the First Action Interview Office Action Summary, mailed December 29, 2010, is the first action under 35 U.S.C. 132 issued by the USPTO. Accordingly, the USPTO should have used the date of December 29, 2010, and not October 5, 2010, for calculating adjustment of the patent term under 37 CFR 1.702(a)(1). The period of adjustment pursuant to 37 CFR 1.703(a)(1) is 1554 days (not 1469 days) beginning on the day after the date that is fourteen months after the date on which the application was filed, September 28,

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[2] Applicant filed a Request for First Action Interview (Enhanced Pilot Program) on December 11, 2009, during the enhanced pilot program. Accordingly, the provisions of the Enhanced First Action Interview Pilot Program govern. 1347 O.G. 170, 173 (October 20, 2009).

2006, and ending on the date of the mailing of First Action Interview Office Action Summary, December 29, 2010. The period of adjustment of 1469 days will be removed, and a period of adjustment of 1554 days will be entered.

Next, the Office finds applicant's assertion that applicant should be assessed a period of 38 days of applicant delay pursuant to 37 CFR 1.704(c)(8) for the filing of a Supplemental Information Disclosure Statement on December 13, 2010, without merit. As a first Office action under 35 U.S.C. 132 was not mailed until December 29, 2010, the papers filed on November 5, 2010, were not a reply within the meaning of 37 CFR 1.702(a). Consequently, the IDS filed on December 13, 2010 is not a supplemental reply within the meaning of 37 CFR 1.704(c)(8). Accordingly, no period of applicant delay will be assessed for the filing of the IDS.

Lastly, the Office concurs with applicant's assertion that applicant should not have been assessed 19 days of delay pursuant to 37 CFR 1.704(b). A review of the application file confirms that the USPTO received a reply on January 24, 2011, within three months of the December 29, 2010 mailing date of the First Action Interview Office Action Summary. Accordingly, the period of reduction of 19 days is not warranted and will be removed.

In view thereof, the patent term adjustment at the time of the mailing of the Notice of Allowance is **1554 days** (1554 days of Office delay and 0 days of applicant delay).

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

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

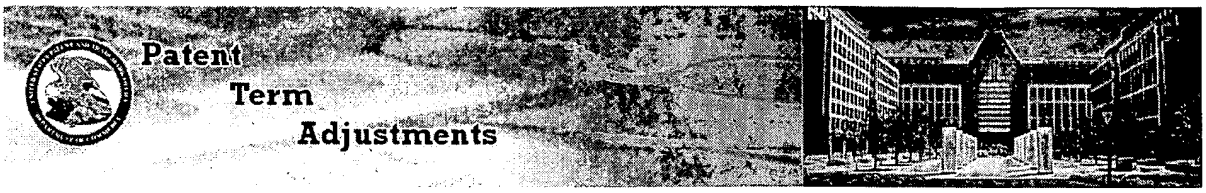
The Office of Data Management has been advised of this decision. The application is thereby forwarded to the Office of Data Management for issuance of the patent.

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

Encl: Copy of updated PALM calculation



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

Application Number*: 11190723 Search | Explanation of PTA Calculation | Explanation of PTE Calculation

PTA Calculations for Application: 11190723

Application Filing Date	07/27/2005	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	1469
A Delays	1469	PTO Manual Adjustment	104
B Delays	0	Applicant Delay (APPL)	19
C Delays	0	Total PTA (days)	1554

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
51	06/27/2011		P028	Adjustment of PTA Calculation by PTO	19		0
50	06/27/2011		P028	Adjustment of PTA Calculation by PTO	1554		0
49	06/27/2011		P028	Adjustment of PTA Calculation by PTO		1469	0
40	03/08/2011		MN/=.	Mail Notice of Allowance			0
39	03/07/2011		N/=.	Notice of Allowance Data Verification Completed			0
38	03/07/2011		IREV	Issue Revision Completed			0
37	03/07/2011		DVER	Document Verification			0
36	03/07/2011		CNTA	Allowability Notice			0
34	01/29/2011		FWDX	Date Forwarded to Examiner			0
33	01/24/2011	01/05/2011	A...	Response after Non-Final Action		19	26
32	12/29/2010		MFAIA	Mail First Action Interview Office Action			0
28	12/20/2010		FAIA	PILOT - First Action Interview Office Action			0
29	12/16/2010		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
35	12/13/2010		IDSC	Information Disclosure Statement considered			0
31	12/13/2010		RCAP	Reference capture on IDS			0
30	12/13/2010		M844	Information Disclosure Statement (IDS) Filed			0
27	12/13/2010		WIDS	Information Disclosure Statement (IDS) Filed			0
26	10/05/2010	09/27/2006	MCTNF	Mail Non-Final Rejection	1469		0.5
25	09/30/2010		CTNF	Non-Final Rejection			0
22	02/03/2010		TI1050	Transfer Inquiry to GAU			0
21	02/02/2010		TI1050	Transfer Inquiry to GAU			0
20	12/11/2009		RFAI	Request for first action interview			0
19	10/16/2009		RCAP	Reference capture on IDS			0
18	10/16/2009		M844	Information Disclosure Statement (IDS) Filed			0
16	10/06/2009		C.AD	Correspondence Address Change			0
15	08/30/2007		TI1050	Transfer Inquiry to GAU			0
14	02/20/2007		DOCK	Case Docketed to Examiner in GAU			0
13	04/26/2006		TSSCOMP	IFW TSS Processing by Tech Center Complete			0
24	03/27/2006		IDSC	Information Disclosure Statement considered			0
12.7	03/27/2006		M844	Information Disclosure Statement (IDS) Filed			0
12	03/27/2006		WIDS	Information Disclosure Statement (IDS) Filed			0
11	02/01/2006		TI1050	Transfer Inquiry to GAU			0
10	08/22/2005		WROIPE	Application Return from OIPE			0
9	08/22/2005		COMP	Application Is Now Complete			0
7	08/22/2005		ROIPE	Application Return TO OIPE			0
6	08/22/2005		OIPE	Application Dispatched from OIPE			0
5	08/22/2005		COMP	Application Is Now Complete			0
4	08/16/2005		L194	Cleared by OIPE CSR			0
3	08/16/2005		CLSS	CASE CLASSIFIED BY OIPE			0
2	08/15/2005		SCAN	IFW Scan & PACR Auto Security Review			0
8	07/27/2005		NPRQ	PGPubs nonPub Request			0
1	07/27/2005		IEXX	Initial Exam Team nn			0
0.5	07/27/2005		EFILE	Filing date			0

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Paper No.

KENYON & KENYON LLP
ONE BROADWAY
NEW YORK NY 10004

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OCT 19 2010

OFFICE OF PETITIONS

In re Application of	:	
Lerner, Rosenberger, Aqua, and	:	DECISION ON RENEWED
Flashner-Barak	:	PETITION PURSUANT TO
Application No. 11/190,766	:	37 C.F.R. § 1.183
Filed: July 26, 2005	:	
Attorney Docket No. 1662/82403	:	
Title: DOSAGE FORMS WITH AN	:	
ENTERICALLY COATED CORE TABLET	:	

This is in response to the renewed petition filed pursuant to 37 C.F.R. § 1.183 on March 24, 2010. Petitioner has requested the waiver of the requirement that each of the inventors sign the concurrently submitted 37 C.F.R. § 1.132 declaration traversing a rejection contained in the non-final Office action of September 18, 2009.

The above-identified application was filed on July 26, 2005, with a 37 C.F.R. § 1.63 declaration signed by each of the originally-listed four joint inventors. On September 18, 2009, a non-final Office action was mailed. As part of the response to this Office communication, Petitioner filed a "DECLARATION UNDER 37 C.F.R. § 1.132," so as to attempt to overcome certain rejections contained therein. Mr. Rosenberger has executed this Rule 1.132 declaration, but Messrs. Lerner and Flashner-Barak have not.

An original petition pursuant to 37 C.F.R. § 1.183 was filed on December 7, 2009. Petitioner requested the waiver of the requirement that each of the inventors sign the concurrently submitted 37 C.F.R. § 1.132 declaration traversing a rejection contained in the non-final Office action of September 18, 2009. Petitioner filed the original petition, seeking the acceptance of the Rule 1.132 declaration without the signature of inventors Lerner and Flashner-Barak. Petitioner indicated that the

signatures of joint inventors Lerner and Flashner-Barak cannot be obtained as each is deceased.[1]

The original petition was dismissed via the mailing of a decision on January 25, 2010. The decision of January 25, 2010 further granted a petition pursuant to 37 C.F.R. § 1.48(a) that was filed on March 9, 2009.

With this renewed petition, Petitioner has included a declaration that has been executed by the legal representatives of the two deceased inventors.

As such, this renewed petition pursuant to 37 C.F.R. § 1.183 is **DISMISSED AS MOOT.**

In view of the joinder of the two legal representatives, further consideration under 37 CFR § 1.183 is not necessary and the petition is considered moot. **This application need not be returned to this Office for further consideration under 37 CFR § 1.47(a).**

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

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[2] All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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

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JOAQUIM HOMAN PATARROYO SALCEDO
RUA ALEXIS DOROFETT 60
APTO. 301 VICOSA
MINOS GERAIS 36570-00 BR BRAZIL

MAILED
DEC 16 2010
OFFICE OF PETITIONS

In re Application of :
Salcedo, et al. :
Application No. 11/190,816 : ON PETITION
Filed: July 28, 2005 :
Attorney Docket No. 4103-5 :

This is a decision on the petition to revive under 37 CFR 1.137(b), filed November 9, 2010.

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

The above-identified application became abandoned for failure to timely file a proper reply in response to the Office action mailed October 16, 2006. This Office action set a shortened statutory period for reply of one (1) month. No reply having been received, the application became abandoned on November 17, 2006. The Office mailed a Notice of Abandonment on June 11, 2007.

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

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 Group Art Unit 1645 for consideration of the Election, filed November 9, 2010.

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

Cliff Congo
Petitions Attorney
Office of Petitions

cc: Paul M. Rivard
Banner & Witcoff, Ltd.
1100 13th Street N.W.
Suite 1200
Washingotn DC 20005

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OCT 18 2011
OFFICE OF PETITIONS

KRATZ QUINTOS & HANSON LLP
1420 K STREET NW
4TH FLOOR
WASHINGTON DC 20005

In re Application of	:	
Konishi, et al.	:	
Application No. 11/190,892	:	DECISION ON PETITION
Filed: July 28, 2005	:	UNDER 37 CFR 1.55(c)
Attorney Docket No. 010387B	:	

This is a decision on the "SUBMISSION OF DECLARATION PAGE (2 OF 6) AND PETITION TO ACCEPT OMITTED ITEM", filed June 27, 2011, which is being treated as a petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for benefit of priority to the filing date of Japanese Application No. 2000-289115, filed September 22, 2000.

The petition is **DISMISSED**.

Applicants filed the application on July 28, 2005. Included with the application was a 37 CFR 1.63 declaration. However, applicants omitted page 2 of the declaration. Page 2 contained a priority claim to Japanese Application No. 2000-289115. Applicants have filed the instant petition, seeking to add page 2 of the declaration into the application pursuant to 37 CFR 1.57 and an incorporation by reference statement

37 CFR 1.55(a)(1)(i) states that a foreign priority claim must be submitted within the later of four months from the actual filing date of the application, or sixteen months from the filing date of the prior foreign application. Accordingly, as there was no proper reference to the foreign application submitted within the above time period, applicants must submit an unintentionally delayed claim for priority pursuant to 37 CFR 1.55(c).

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

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

Here, the instant petition does not meet requirement (4) above.

The petition fee of $1410 has been charged to Deposit Account No. 01-2340, as authorized. No additional petition fee is due on 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 fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Petitions Attorney Cliff Congo at (571) 272-3207.

Chris Bottorff
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

KRATZ QUINTOS & HANSON LLP
1420 K STREET NW
4TH FLOOR
WASHINGTON DC 20005

MAILED

OCT 27 2011

OFFICE OF PETITIONS

In re Application of	:	
Konishi, et al.	:	
Application No. 11/190,892	:	DECISION ON PETITION
Filed: July 28, 2005	:	UNDER 37 CFR 1.55(c)
Attorney Docket No. 010387B	:	

This is a decision on the "2ND SUBMISSION OF DECLARATION PAGE (2 OF 6) AND *RENEWED* PETITION TO ACCEPT OMITTED ITEM", filed October 20, 2011, which is being treated as a petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for benefit of priority to the filing date of Japanese Application No. 2000-289115, filed September 22, 2000.

The petition is **GRANTED**.

Applicants filed the application on July 28, 2005. Included with the application was a 37 CFR 1.63 declaration. However, applicants omitted page 2 of the declaration. Page 2 contained a priority claim to Japanese Application No. 2000-289115. Applicants filed a petition on June 27, 2011, seeking to add page 2 of the declaration into the application pursuant to 37 CFR 1.57 and an incorporation by reference statement. However, the petition was dismissed in a decision mailed on October 20, 2011. The petition was dismissed because petitioner did not include the required statement of unintentional delay.

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

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

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

With the instant renewed petition, petitioner has satisfied requirement (4) above. The other requirements were previously satisfied with the petition filed June 27, 2011.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.55(c) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed application. In order for the instant application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. 119 and 37 CFR 1.55 must be met. Accordingly, the examiner will, in due course, consider the benefit claim and determine whether the instant application is entitle to the benefit of the earlier filing date.

The application is being forwarded to Group Art Unit 2618 for consideration of the foreign priority claim set forth in page 2 of the declaration, filed October 20, 2011.

Any questions concerning this matter may be directed to Petitions Attorney Cliff Congo at (571) 272-3207.

Chris Bottorff
Petitions Examiner
Office of Petitions

Enc: 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
11/190,892	07/28/2005	2618	1000	010387B	7	1

CONFIRMATION NO. 5037

CORRECTED FILING RECEIPT

23850
KRATZ, QUINTOS & HANSON, LLP
1420 K Street, N.W.
4th Floor
WASHINGTON, DC 20005

OC000000050658250

Date Mailed: 10/27/2011

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)

Michihiro Konishi, Kawasaki, JAPAN;
Tsuyoshi Uchihara, Kawasaki, JAPAN;
Kazuharu Shibata, Kawasaki, JAPAN;
Sonomasa Kobayashi, Kawasaki, JAPAN;
Kaigo Tanaka, Kawasaki, JAPAN;
Kiyoshi Hamada, Kawasaki, JAPAN;
Hiroshi Yokozawa, Kawasaki, JAPAN;

Assignment For Published Patent Application

FUJITSU LIMITED, Kawasaki, JAPAN

Power of Attorney: The patent practitioners associated with Customer Number 23850

Domestic Priority data as claimed by applicant

This application is a CON of 10/861,503 06/07/2004 PAT 7,561,106
which is a DIV of 09/813,145 03/21/2001 PAT 6,775,133

Foreign Applications (You may be eligible to benefit from the **Patent Prosecution Highway** program at the USPTO. Please see http://www.uspto.gov for more information.)
JAPAN 2000-289115 09/22/2000

If Required, Foreign Filing License Granted: 08/15/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/190,892**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
Title

Electronic equipment

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).

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OCT 24 2011

OFFICE OF PETITIONS

MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH NC 27627

In re Application of :
Mark Raffetto et al :
Application No. 11/191,111 : DECISION GRANTING PETITION
Filed: July 27, 2005 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 5308-463 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 24, 2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on September 22, 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 2815 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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PERKINS COIE LLP
PATENT-SEA
P.O. BOX 1247
SEATTLE, WA 98111-1247

Mail Date: 08/04/2010

Applicant	: Sangsun Kim	: DECISION ON REQUEST FOR
Patent Number	: 7667410	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/191,129	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/27/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20120415

DATE : April 18, 2012

TO SPE OF : ART UNIT 3633

SUBJECT : Request for Certificate of Correction on Patent No.: RE 42,896

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 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: Brian Glessner **Art Unit** 3633

Brian Glessner

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

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
11/191,173	28 July, 2005	HIGGINBOTHAM, EDWARD ALAN	42545-221184

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

EXAMINER	
JEANETTE E. CHAPMAN	
ART UNIT	PAPER
3633	20120415

DATE MAILED:

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

Commissioner for Patents

DATE: April 16, 2012
TO: Certificates of Correction Branch
FROM: Brian GLESSNER, SPE, Art Unit 3633
SUBJECT: Request for Certificate of Correction
Please issue a Certificate of Correction in U.S. Reissued Patent No. RE 42,896 E as specified on the attached Certificate.

Brian GLESSNER, SPE
Art Unit 3633
UNITED STATES PATENT AND TRADEMARK OFFICE CERTIFICATE
Patent No. RE 42,896 E
Patented: November 8; 2011
The present reissue patent issued from an application that is one of a family of continuing reissue applications resulting from Patent No. 6,598,352. The present reissue patent issued without the cross reference to the other reissue application(s) of the family which is required pursuant to 37 CFR 1.177(a). Accordingly, insert in the first sentence of the specification as follows:
CROSS-REFERENCE TO RELATED APPLICATIONS
This application is reissue application of U.S. Patent No. 6,598,352, issued on July 29, 2003 from U.S. Application No. 09/922,636, filed on August 7, 2001. A continuation reissue application of this reissue application was filed November 2, 2011, as Application No. 13/287,732.
Notice: More than one reissue application has been filed for the reissue of patent 6,598,352. The reissue applications are: U.S. Application No. 11/191,173, filed July 28, 2005, now U.S. Reissued Patent No. RE 42,896, issued November 8, 2011; and U.S. Application No. 13/287,732, filed November 2, 2011.

Brian Glessner
SPE ART UNIT 3633

PTO-90C (Rev.04-03)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO.: RE 42,896 Page 1 of
DATED: November 8, 2011
INVENTOR(S): EDWARD HIGGENBOTHAM

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

The present reissue patent issued from an application that is one of a family of continuing reissue applications resulting from Patent No. 6,598,352. The present reissue patent issued without the cross reference to the other reissue application(s) of the family which is required pursuant to 37 CFR 1.177(a). Accordingly, insert in the first sentence of the specification as follows:

CROSS-REFERENCE TO RELATED APPLICATIONS

This application is reissue application of U.S. Patent No. 6,598,352, issued on July 29, 2003 from U.S. Application No. 09/922,636, filed on August 7, 2001. A continuation reissue application of this reissue application was filed November 2, 2011, as Application No. 13/287,732.

Notice: More than one reissue application has been filed for the reissue of patent 6,598,352. The reissue applications are:

U.S. Application No. 11/191,173, filed July 28, 2005, now U.S. Reissued Patent No. RE 42,896, issued November 8, 2011; and

U.S. Application No. 13/287,732, filed November 2, 2011.

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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BABCOCK & WILCOX POWER GENERATION GROUP, INC.
PATENT DEPARTMENT
20 SOUTH VAN BUREN AVENUE
BARBERTON OH 44203

MAILED

NOV 22 2010

OFFICE OF PETITIONS

In re Application of	:	
Kiplin C. Alexander	:	
Application No. 11/191,183	:	ON PETITION
Filed: July 27, 2005	:	
Attorney Docket No. 7144	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 28, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of April 13, 2010. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No 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 14, 2010. The Notice of Abandonment was mailed October 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 a Request for Continued Examination (RCE) and fee of $810, and the submission required by 37 CFR 1.114; (2) the petition fee of $1,620; and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 1723 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

/Terri Johnson/
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

MAILED
AUG 22 2011
OFFICE OF PETITIONS

JAMES L. JACKSON
James L. Jackson, P.C.
10723 Sugar Hill Dr.
Houston TX 77042

In re Application of :
Mark C. LARUE : ON PETITION
Application No. 11/191199 :
Filed: July 27, 2005 :
Atty. Docket No.: LRU005

This is a decision on the petition under 37 CFR 1.137(b), filed July 29, 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 October 16, 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) was obtained. The application became abandoned January 17, 2008. A Letter of Abandonment was mailed May 15, 2008.

The petition satisfies the conditions for revival pursuant to 37 CFR 1.137(b) by including (1) a reply in the form of a response to the non-final Office action mailed October 16, 2007, (2) a petition fee of $810, and (3) a statement of unintentional delay. The reply to the non-final Office action is accepted as having been unintentionally delayed.

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

The application will be referred to Technology Center Art Unit 3641 for further action on the filed response.

for Ramesh Krishnamurthy
Anthony Knight
Director
Office of Petitions

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United States Patent and Trademark Office
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MAILED

NOV 18 2010

OFFICE OF PETITIONS

MORRISON & FOERSTER LLP
755 PAGE MILL RD
PALO ALTO, CA 94304-1018

In re Patent of Haight et al.	:	DECISION ON REQUEST
Patent No. 7,576,216	:	FOR RECONSIDERATION OF
Issue Date: August 18, 2009	:	PATENT TERM ADJUSTMENT
Application No. 11/191,319	:	AND NOTICE OF INTENT TO
Filing Date: July 28, 2005	:	ISSUE CERTIFICATE OF
Attorney Docket No. 2202503.120-US3	:	CORRECTION

This decision is in response to the "Request for Reconsideration of the Patent Term Adjustment Under 37 C.F.R. §§ 1.702-1.705" filed May 21, 2010, stating the correct patent term adjustment is eight hundred sixty-two (862) days.

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

The patent issued August 18, 2009. The patent term adjustment indicated in the patent was 497 days.

A request for reconsideration of the patent term adjustment under 37 C.F.R. § 1.705(d) was filed October 15, 2009. The petition asserted the correct patent term adjustment is 862 days.

A "Request for Recalculation of Patent Term Adjustment in View of *Wyeth*" was filed February 12, 2010.

On March 23, 2010, the Office issued a decision in response to the *October 15, 2009* request. The decision stated a certificate of correction would be issued indicating the term of the patent is extended or adjusted by 862 days.

On April 20, 2010, the Office issued a certificate of correction indicating the term of the patent is extended or adjusted by 862 days.

On April 21, 2010, the Office issued a decision in response to the February 12, 2010 request. The decision indicated the Office would be issuing a certificate of correction indicating the term of the patent is extended or adjusted by 1,227 days unless a request for reconsideration of the decision was filed within the longer of one month or 30 days from the issuance date of the decision.

The instant request was timely filed May 21, 2010, and asserts the correct number of days of patent term adjustment is 862 days.

On September 7, 2010, the Office issued a certificate of correction indicating the patent term adjustment is 1,227 days.

A review of the record indicates the patent should have set forth a patent term adjustment of 862 days as asserted in the instant request.

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 patent is extended or adjusted by **eight hundred sixty-two (862)** days.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO.	:	7,576,216 B2
APPLICATION NO.	:	11/191,319
DATED	:	August 18, 2009
INVENTOR(S)	:	Haight et al.

DRAFT

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

On the Title Page:

The first or sole Notice should read --

Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 862 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

PROSKAUER ROSE LLP
ONE INTERNATIONAL PLACE
BOSTON MA 02110

MAILED

SEP 2 1 2010

OFFICE OF PETITIONS

In re Application
Samuel Klein et al.
Application No. 11/191,449
Filed: July 27, 2005
Attorney Docket No. 11973-007

: DECISION ON APPLICATION
: FOR PATENT TERM ADJUSTMENT

This is in response to the REQUEST FOR CORRECTION OF PATENT TERM ADJUSTMENT DETERMINATION filed June 3, 2010. Applicant requests that the determination of patent term adjustment be corrected from 159 days to 847 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]

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

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[1]Reconsidered in light of the Court of Appeals for the Federal Circuit's decision in *Wyeth v. Kappos*, 2009-1120 (Fed. Cir. 1-7-2010).

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.[2]

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 17, 2010, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 159 days. On June 3, 2010, applicant timely submitted the instant application for patent term adjustment[3]. Applicant maintains that the delay accorded for Examination delay is incorrectly stated. Applicant argues that although this application contains two final rejections (one dated May 27, 2008 and one dated January 4, 2010), the finality of the May 27, 2008 Office Action was ultimately withdrawn in an Office Action mailed October 30, 2008.

Applicant states that the above-identified application is not subject to a terminal disclaimer.

Applicant's argument has been considered, but not found persuasive. A Final Office Action was mailed on May 30, 2008, thereafter, a non-Final Office Action was mailed on

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[2]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.

[3] PALM records indicate that the issue fee was also paid on June 3, 2010.

October 30, 2008. The mailing of a second Office action withdrawing the first action does not negate the fact that the Office took action in this application within the meaning of § 1.702(a)(1) on May 30, 2008. Accordingly, entry of a period of adjustment for Office delay in mailing a further notification is not warranted.

The Office acknowledges the authorization to charge 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) to deposit account no. 16-2500.

The application is being forwarded to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent will include any additional patent term adjustment accrued for Office delay in issuing the patent after payment of the issue fee and all outstanding requirements having been met.

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

Anthony Knight
Director
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SNR DENTON US LLP
P.O. Box 061080
Chicago, IL 60606-1080

MAILED
DEC 19 2011
OFFICE OF PETITIONS

In re Application of	:	
Mohammad Ayub Khank, et al.	:	
Application No. 11/191,490	:	DECISION ON PETITION
Filed: July 27, 2005	:	TO WITHDRAW
Attorney Docket No. 12000010-0005	:	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. 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 Tarek N. Faml on behalf of all attorneys of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future communications from the Office will be directed to the assignee of the entire interest at the first copied address below until otherwise properly notified by the applicant.

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

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

cc: **STREAMING NETWORKS**
Scott Boulevard, Suite 1103
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
11/191,490	07/27/2005	Mohammad Ayub Khan	12000010-0005

CONFIRMATION NO. 6217

POWER OF ATTORNEY NOTICE

26263
SNR DENTON US LLP
P.O. BOX 061080
CHICAGO, IL 60606-1080

OC000000051476879

Date Mailed: 12/14/2011

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.

/tsjohnson/

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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www.uspto.gov

Patent Docket Administrator
Lowenstein Sandler PC
65 Livingston Avenue
Roseland NJ 07068

MAILED

JAN 27 2012

OFFICE OF PETITIONS

In re Application of :
Schrempp : DECISION ON PETITION
Application No. 11/191,493 :
Filed: July 27, 2005 :
Atty. Dkt. No.: 5219P009 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 11, 2012.

The petition is **GRANTED**.

This application became abandoned May 18, 2011 for failure to timely reply to the Notice of Allowance and Issue Fee Due (Notice) mailed February 17, 2011. The Notice set a three (3) month statutory period of time for reply. Notice of Abandonment was mailed June 3, 2011.

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

The instant petition has been carefully reviewed and found in compliance with the requirements set forth above.

In view thereof, this application is being forwarded to the Office of Data Management for further processing.

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

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

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

MAILED
JAN 05 2012
OFFICE OF PETITIONS

In re Application of	:	
Prashanth Rao	:	
Application No. 11/191,528	:	DECISION ON APPLICATION
Filed: July 28, 2005	:	FOR
Atty Docket No. 12144-0023001	:	PATENT TERM ADJUSTMENT

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)" filed December 19, 2011. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from two hundred seventy-three (273) days to one hundred forty-three (143) 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 hundred forty-three (143) days. A copy of the updated PAIR screen, showing the corrected determination, is enclosed.

A review of the application history confirms that applicants' characterization of the basis for and amounts of the adjustments and reductions of patent term in this application at the time of the mailing of the Notice of Allowance are correct.

In view thereof, the corrected determination of patent term adjustment at the time of the mailing of the Notice of Allowance is one hundred forty-three (143) 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.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PAIR Screen

11/191,528	CONTROLLING USAGE CAPACITY IN A RADIO ACCESS NETWORK	12144-0023001	01-03-2012::15:15:20

Patent Term Adjustments

Patent Term Adjustment (PTA) for Application Number: 11/191,528

Filing or 371(c) Date:	07-28-2005	Overlapping Days Between {A and B} or {A and C}:	0
Issue Date of Patent:	-	Non-Overlapping USPTO Delays:	568
A Delays:	568	PTO Manual Adjustments:	-130
B Delays:	0	Applicant Delays:	295
C Delays:	0	Total PTA Adjustments:	143

Patent Term Adjustment History **Explanation Of Calculations**

Number	Date	Contents Description	PTO (Days)	APPL (Days)	Start
210	01-03-2012	Adjustment of PTA Calculation by PTO		22	0
209	01-03-2012	Adjustment of PTA Calculation by PTO	24		0
208	01-03-2012	Adjustment of PTA Calculation by PTO		132	0
195	10-18-2011	Mail Notice of Allowance	58		148
194	10-12-2011	Office Action Review			0
193	10-12-2011	Office Action Review			0
192	10-12-2011	Issue Revision Completed			0
191	10-12-2011	Document Verification			0
190	09-30-2011	Office Action Review			0
189	09-30-2011	Office Action Review			0
188	09-30-2011	Notice of Allowance Data Verification Completed			0
187	09-30-2011	Reasons for Allowance			0
186	09-30-2011	Allowability Notice			0
185	08-31-2011	Information Disclosure Statement (IDS) Filed			0
183	04-21-2011	Information Disclosure Statement considered			0
182	06-01-2011	Information Disclosure Statement considered			0
181	07-27-2011	Information Disclosure Statement considered			0
180	08-31-2011	Information Disclosure Statement considered			0

168	08-31-2011	Reference capture on IDS	0
167	08-31-2011	Information Disclosure Statement (IDS) Filed	0
166	07-27-2011	Reference capture on IDS	0
165	07-27-2011	Information Disclosure Statement (IDS) Filed	0
164	06-01-2011	Information Disclosure Statement (IDS) Filed	0
163	08-31-2011	Information Disclosure Statement (IDS) Filed	0
156	07-27-2011	Information Disclosure Statement (IDS) Filed	0
155	06-01-2011	Information Disclosure Statement (IDS) Filed	0
154	04-21-2011	Information Disclosure Statement (IDS) Filed	0
153	04-27-2011	Email Notification	0
152	04-27-2011	Mail Examiner Interview Summary (PTOL - 413)	0
151	04-21-2011	Miscellaneous Incoming Letter	0
150	04-22-2011	Date Forwarded to Examiner	0
149	04-21-2011	Amendment Submitted/Entered with Filing of CPA/RCE	0
148	04-21-2011	Request for Continued Examination (RCE)	0
147	04-22-2011	Disposal for a RCE / CPA / R129	0
146	04-21-2011	Information Disclosure Statement (IDS) Filed	0
145	04-14-2011	Examiner Interview Summary Record (PTOL - 413)	0
144	04-21-2011	Information Disclosure Statement (IDS) Filed	0
143	04-21-2011	Workflow - Request for RCE - Begin	0
142	01-28-2011	Electronic Review	0
141	01-21-2011	Email Notification	0
140	01-21-2011	Mail Final Rejection (PTOL - 326)	0
139	01-18-2011	Final Rejection	0
138	09-21-2010	Information Disclosure Statement considered	0

137	09-21-2010	Information Disclosure Statement considered		0
136	10-04-2010	Information Disclosure Statement considered		0
135	11-18-2010	Information Disclosure Statement considered		0
134	01-04-2011	Information Disclosure Statement considered		0
133	01-04-2011	Reference capture on IDS		0
132	01-04-2011	Information Disclosure Statement (IDS) Filed	6	130
131	01-07-2011	Date Forwarded to Examiner		0
130	12-29-2010	Response after Non-Final Action	27	113
129	12-29-2010	Request for Extension of Time - Granted		0
128	01-04-2011	Information Disclosure Statement (IDS) Filed		0
127	12-29-2010	Email Notification		0
126	12-29-2010	Mail Examiner Interview Summary (PTOL - 413)		0
125	12-13-2010	Examiner Interview Summary Record (PTOL - 413)		0
124	11-18-2010	Reference capture on IDS		0
123	11-18-2010	Information Disclosure Statement (IDS) Filed		0
122	11-18-2010	Information Disclosure Statement (IDS) Filed		0
121	10-04-2010	Information Disclosure Statement (IDS) Filed		0
120	10-04-2010	Information Disclosure Statement (IDS) Filed		0
119	09-21-2010	Information Disclosure Statement (IDS) Filed		0
118	09-21-2010	Reference capture on IDS		0
117	09-21-2010	Information Disclosure Statement (IDS) Filed		0
116	09-21-2010	Information Disclosure Statement (IDS) Filed		0
115	09-02-2010	Electronic Review		0
114	09-02-2010	Email Notification		0
113	09-02-	Mail Non-Final Rejection		0

	2010			
112	08-30-2010	Non-Final Rejection		0
111	12-14-2009	Information Disclosure Statement considered		0
110	01-20-2010	Information Disclosure Statement considered		0
109	10-15-2009	Information Disclosure Statement considered		0
108	07-21-2010	Information Disclosure Statement considered		0
107	07-21-2010	Reference capture on IDS		0
106	07-21-2010	Electronic Information Disclosure Statement	15	102
105	07-21-2010	Information Disclosure Statement (IDS) Filed		0
104	07-08-2010	Date Forwarded to Examiner		0
103	07-06-2010	Amendment Submitted/Entered with Filing of CPA/RCE		0
102	07-06-2010	Request for Continued Examination (RCE)		93
101	07-08-2010	Disposal for a RCE / CPA / R129		0
100	07-06-2010	Request for Extension of Time - Granted		0
99	07-06-2010	Workflow - Request for RCE - Begin		0
98	05-03-2010	Mail Appeals conf. Proceed to BPAI		0
97	04-30-2010	Pre-Appeals Conference Decision - Proceed to BPAI		0
96	03-25-2010	Email Notification		0
95	03-25-2010	Change in Power of Attorney (May Include Associate POA)		0
94	03-15-2010	Request for Pre-Appeal Conference Filed		0
93	03-15-2010	Notice of Appeal Filed	60	81
92	03-15-2010	Request for Extension of Time - Granted		0
91	01-20-2010	Information Disclosure Statement (IDS) Filed		0
88	01-20-2010	Information Disclosure Statement (IDS) Filed		0
87	09-09-2009	Information Disclosure Statement (IDS) Filed		0

86	12-14-2009	Information Disclosure Statement (IDS) Filed		0
85	10-15-2009	Information Disclosure Statement (IDS) Filed		0
84	10-15-2009	Information Disclosure Statement (IDS) Filed		0
83	10-14-2009	Electronic Review		0
82	10-14-2009	Email Notification		0
81	10-14-2009	Mail Final Rejection (PTOL - 326)		0
80	10-09-2009	Final Rejection		0
79	04-10-2009	Information Disclosure Statement considered		0
78	04-29-2009	Information Disclosure Statement considered		0
77	09-25-2009	Information Disclosure Statement considered		0
76	09-09-2009	Information Disclosure Statement considered		0
75	07-21-2009	Information Disclosure Statement considered		0
74	04-29-2009	Information Disclosure Statement considered		0
73	04-10-2009	Information Disclosure Statement considered		0
72	09-25-2009	Reference capture on IDS		0
71	09-25-2009	Information Disclosure Statement (IDS) Filed	56	61
70	04-10-2009	Reference capture on IDS		0
69	04-10-2009	Information Disclosure Statement (IDS) Filed		0
68	09-09-2009	Information Disclosure Statement (IDS) Filed		0
67	09-25-2009	Information Disclosure Statement (IDS) Filed		0
66	04-29-2009	Reference capture on IDS		0
65	04-29-2009	Information Disclosure Statement (IDS) Filed		0
64	09-09-2009	Information Disclosure Statement (IDS) Filed		0
63	07-31-2009	Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received		0
62	09-06-2009	Date Forwarded to Examiner		0

61	07-31-2009	Response after Non-Final Action	42	50
60	07-31-2009	Request for Extension of Time - Granted		0
59	07-21-2009	Reference capture on IDS		0
58	07-21-2009	Information Disclosure Statement (IDS) Filed		0
57	07-21-2009	Information Disclosure Statement (IDS) Filed		0
56	04-29-2009	Information Disclosure Statement (IDS) Filed		0
55	04-29-2009	Information Disclosure Statement (IDS) Filed		0
54	04-10-2009	Information Disclosure Statement (IDS) Filed		0
53	04-10-2009	Information Disclosure Statement (IDS) Filed		0
52	03-19-2009	Electronic Review		0
51	03-19-2009	Email Notification		0
50	03-19-2009	Mail Non-Final Rejection		0
49	03-16-2009	Non-Final Rejection		0
48	02-27-2009	Information Disclosure Statement considered		0
47	02-24-2009	Information Disclosure Statement considered		0
46	02-27-2009	Reference capture on IDS		0
45	02-27-2009	Information Disclosure Statement (IDS) Filed	3	40
44	02-27-2009	Information Disclosure Statement (IDS) Filed		0
43	03-04-2009	Date Forwarded to Examiner		0
42	02-24-2009	Amendment Submitted/Entered with Filing of CPA/RCE		0
41	03-04-2009	Date Forwarded to Examiner		0
40	02-24-2009	Request for Continued Examination (RCE)	24	21
39	03-04-2009	Disposal for a RCE / CPA / R129		0
38	02-24-2009	Reference capture on IDS		0
37	02-24-	Information Disclosure Statement (IDS) Filed		0

	2009				
36	02-24-2009	Information Disclosure Statement (IDS) Filed			0
35	02-24-2009	Workflow - Request for RCE - Begin			0
34	02-18-2009	Email Notification			0
33	02-18-2009	Mail Advisory Action (PTOL - 303)			0
32	02-12-2009	Advisory Action (PTOL-303)			0
31	01-30-2009	Information Disclosure Statement considered			0
30	01-30-2009	Information Disclosure Statement considered			0
29	01-30-2009	Reference capture on IDS			0
28	01-30-2009	Information Disclosure Statement (IDS) Filed			0
27	02-09-2009	Date Forwarded to Examiner			0
26	01-30-2009	Amendment after Final Rejection			0
25	01-30-2009	Information Disclosure Statement (IDS) Filed			0
24	01-30-2009	Information Disclosure Statement (IDS) Filed			0
23	11-02-2008	Electronic Review			0
22	11-02-2008	Email Notification			0
21	10-31-2008	Mail Final Rejection (PTOL - 326)			0
20	10-27-2008	Final Rejection			0
19	08-12-2008	Date Forwarded to Examiner			0
18	07-21-2008	Response after Non-Final Action		62	16
17	07-21-2008	Request for Extension of Time - Granted			0
16	02-20-2008	Mail Non-Final Rejection	510		0.5
15	02-18-2008	Non-Final Rejection			0
14	12-13-2007	Case Docketed to Examiner in GAU			0
13	10-17-2007	Withdraw Flagged for 5/25			0

12	10-15-2007	Flagged for 5/25	0
11	07-10-2007	Case Docketed to Examiner in GAU	0
10	02-01-2007	PG-Pub Issue Notification	0
9	03-22-2006	Case Docketed to Examiner in GAU	0
8	11-13-2005	IFW TSS Processing by Tech Center Complete	0
7	11-13-2005	Case Docketed to Examiner in GAU	0
6	10-26-2005	Case Docketed to Examiner in GAU	0
5	08-23-2005	Application Dispatched from OIPE	0
4	08-24-2005	Application Is Now Complete	0
3	08-20-2005	Cleared by OIPE CSR	0
2	08-17-2005	IFW Scan & PACR Auto Security Review	0
1	07-28-2005	Initial Exam Team nn	0
0.5	07-28-2005	Filing date	0

Close Window

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : **10-18-10**

TO SPE OF : ART UNIT **1614**

SUBJECT : Request for Certificate of Correction for Appl. No.: **11191688** Patent No.: **7803817**

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: _____

P. Sawyer (AU1614)

ARDIN H. MARSCHEL
SUPERVISORY PATENT EXAMINER

Ardin H. Marschel
SPE

1614
Art Unit

VIA EFS
Date of Deposit: October 5, 2010

Attorney Docket No. 35450-501001US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANTS :	Kostadinov, et al.	CONFIRMATION NO.:	5407
U.S. PATENT NO.:	7,803,817	ISSUE DATE:	September 28, 2010
SERIAL NUMBER :	11/191,688	EXAMINER :	Phyllis G. Spivack
FILING DATE :	July 27, 2005	ART UNIT :	1614
FOR :	COMPOSITIONS AND METHODS FOR INHIBITING GASTRIC ACID SECRETION		

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

REQUEST FOR CERTIFICATE OF CORRECTION UNDER 37 CFR § 1.323

The patentee of the above-identified patent, through its attorney, hereby requests issuance of a Certificate of Correction. A certificate is required to correct inadvertent typographical errors, as follows:

The claims:

In claim 7, line 3, "isomeprazole" should read -- esomeprazole--

In claim 10, line 11, "isomeprazole" should read --esomeprazole--

The correction is not believed to involve such change as would constitute new matter or require examination.

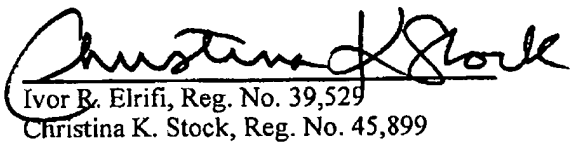
The errors were present in the application as filed. Accordingly, payment of the fee set forth in 37 CFR §1.20(a) ($100) is provided herein.

It is respectfully requested that a Certificate of Correction be issued pursuant to 35 U.S.C. 255 to correct the error in the claims. Enclosed herewith is a copy of a proposed Certificate of Correction indicating the error and correction thereof.

Applicant: Kostadinov, et al.
Patent Number: 7,803,817

No additional fees are believed due in connection with this submission, however, the Commissioner is hereby authorized to charge any additional fees due, or credit any overpayment of same, to Deposit Account No. 50-0311; Reference No. 35450-501001US.

Respectfully submitted,



Ivor R. Elrifi, Reg. No. 39,529
Christina K. Stock, Reg. No. 45,899
Attorneys for Applicants
c/o MINTZ, LEVIN
Tel: (617) 542-6000
Fax: (617) 542-2241
Customer Number 30623

Dated: October 5, 2010

5041344v.1

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.	:	7,803,817
APPLICATION NO.	:	11/191,688
ISSUE DATE	:	September 28, 2010
INVENTOR(S)	:	Aleksey Kostadinov et al.

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

In the Claims:

In claim 7, line 3, "isomeprazole" should read --esomeprazole--

In claim 10, line 11, "isomeprazole" should read --esomeprazole--

MAILING ADDRESS OF SENDER (Please do not use customer number below):
Ivor R. Elrifi, Esq.
MINTZ LEVIN COHN FERRIS GLOVSKY AND POPEO, P.C.
One Financial Center
Boston, Massachusetts 02111

UNITED STATES 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 98052-6399

MAILED

JAN 05 2011

OFFICE OF PETITIONS

In re Application of :
RODRIGUEZ et al. :
Application No. 11/191,761 : DECISION ON PETITIONS
Filed: 07/28/2005 : UNDER 37 CFR 1.181 AND
Attorney Docket No. 313539.01 : 37 CFR 1.78(a)(6)

This is a decision on the petition under 37 CFR 1.137(b), filed June 16, 2010, which is being treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment. This is also a decision on the renewed petition under 37 CFR 1.78(a)(6), filed June 4, 2010, to accept an unintentionally delayed claim under 35 U.S.C. 119(e) for the benefit of the prior-filed provisional Application.

Petition Under 37 CFR 1.181

This application was held abandoned for failure to respond in a timely manner to the final Office action, mailed on August 12, 2009, which set a three-month shortened statutory period for reply. Extensions of this period were available under 37 CFR 1.136(a). On June 10, 2010, the Office mailed a Notice of Abandonment.

Petitioners assert that they filed a timely reply to the final Office action in the form of a Request for Continued Examination, a submission in the form of an amendment, and a request for an extension of time for response within the first month (and fee) on November 23, 2009.

After further review of the application history, there is an indication in the record of the filing of an RCE on November 23, 2009, as evidence by the Fee Transmittal. In view of the fact that petitioners filed an RCE, a submission, the RCE fee, and a one-month extension of time on November 23, 2009, the Office has determined that petitioner submitted a timely and proper reply to the final Office action. Accordingly, the petition under 37 CFR 1.181 is **GRANTED**. The holding of abandonment is hereby withdrawn and the application is restored to pending status.

Petition Under 37 CFR 1.78(a)(6)

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.

The intermediate nonprovisional application, No. 11/152,754, was filed on June 13, 2005, within twelve months of the July 2, 2004 filing date of the prior-filed provisional application, No. 60/585,212, and for which priority is claimed. A reference to the prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title. Accordingly, the petition under 37 CFR 1.78(a)(6) is **GRANTED**.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that 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.

The $1,620.00 fee for filing the petition under 37 CFR 1.137(b) is unnecessary and will be refunded in due course.

The application is being forwarded to Technology Center AU 2438 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.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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
11/191,761	07/28/2005	2438	1000	313539.01	20	3

CONFIRMATION NO. 7292

CORRECTED FILING RECEIPT

22971
MICROSOFT CORPORATION
ONE MICROSOFT WAY
REDMOND, WA 98052-6399

Date Mailed: 01/04/2011

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)

Pablo Rodriguez Rodriguez, Cambridge, UNITED KINGDOM;
Christos Gkantsidis, Cambridge, UNITED KINGDOM;
Stephane Ubeda, Lyon, FRANCE;

Assignment For Published Patent Application

Microsoft Corporation, Redmond, WA

Power of Attorney: The patent practitioners associated with Customer Number 22971

Domestic Priority data as claimed by applicant

This application is a CIP of 11/152,754 06/13/2005 PAT 7,756,051 *
which claims benefit of 60/585,212 07/02/2004
(*)Data provided by applicant is not consistent with PTO records.

Foreign Applications

If Required, Foreign Filing License Granted: 08/15/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/191,761**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Security for network coding file distribution

Preliminary Class

713

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

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

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

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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MICROSOFT CORPORATION
ONE MICROSOFT WAY
REDMOND WA 98052-6399

In re Application of
KAPADIA, ARSHISH C. et al.
Application No.: 11/191,771
Filing or 371(c) Date: July 28, 2005
Attorney Docket Number: 312731.01

: AUG 30 2010
: DECISION ON
: PETITION
:

This is a decision on the Petition to Withdraw Holding of Abandonment received in the United States Patent and Trademark Office (USPTO) on May 5, 2010.

This petition is **GRANTED**.

The application was held abandoned for failure to timely submit the Issue Fee and Publication fee as required by the Notice of Allowance, mailed January 13, 2010 which set forth a three (3) month statutory period of reply. The Notice of Abandonment was mailed on April 30, 2010.

The Office acknowledges the timely receipt of Part B – Fee(s) Transmittal (Transmittal) on January 25, 2010, 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. The application file **does** reveal a previously filed authorization to charge **such** fee(s) or specifically the issue fee.

In light of the compliance with 37CFR 1.25, the holding of abandonment can be withdrawn.

In view of the foregoing, the holding of abandonment for failure to timely pay the issue fee is hereby withdrawn and the application restored to pending status.

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 756-1547.

Kay D. Pinkney
Application Assistance Unit
Office of Data Management

UNITED STATES PATENT AND TRADEMARK OFFICE

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

GORDON D. COPLEIN
1046 OAKPOINTE PLACE
DUNWOODY GA 30338

MAILED

MAR 0 9 2012

OFFICE OF PETITIONS

In re Application of	:	
LINDO, et al	:	
Application No. 11/191,774	:	DECISION ON PETITION
Filed: July 28, 2005	:	TO WITHDRAW
Attorney Docket No. KEN-MULTI	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 19, 2012.

The request is **DISMISSED**.

The request to withdraw from record cannot be approved because the request to change the correspondence address is not acceptable. The Office will either change the correspondence address of record to the most current address information provided for the assignee of the entire interest who properly became of record under 37 CFR 3.71 or, if no assignee of the entire interest has properly been made of record under 37 CFR 3.71, the most current address information provided for the first named inventor. 37 CFR 3.71 states:

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

According to a review of USPTO records, there is currently no Statement under 37 CFR 3.73(b) of record in the instant application, the Office cannot change the correspondence address to the address indicated on the Request to Withdraw.

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) 272-6735.

/Diane Goodwyn/
Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: KENILWORTH SYSTEMS CORPORATION
626 REXCORP PLAZA, SUITE 676, WEST TOWER
UNIONDALE NY 11556

UNITED STATES PATENT AND TRADEMARK OFFICE

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

GORDON D. COPLEIN
1046 OAKPOINTE PLACE
DUNWOODY GA 30338

MAILED
MAR 30 2012
OFFICE OF PETITIONS

In re Application of	:	
LINDO, et al	:	
Application No. 11/191,774	:	DECISION ON PETITION
Filed: July 28, 2005	:	TO WITHDRAW
Attorney Docket No. KEN-MULTI	:	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 15, 2012.

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 Kyle Turley on behalf of all the attorneys of record.

All the attorneys of record have been withdrawn.

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

The correspondence address of record has been changed and the new correspondence address is the address indicated below until otherwise properly notified 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: KENILWORTH SYSTEMS CORPORATION
626 REXCORP PLAZA, SUITE 676, WEST TOWER
UNIONDALE NY 11556

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
11/191,774	07/28/2005	Herbert Lindo	Ken-Multi

CONFIRMATION NO. 7297

POWER OF ATTORNEY NOTICE

26555
GORDON D. COPLEIN
1046 OAKPOINTE PLACE
DUNWOODY, GA 30338

OC00000005338571

Date Mailed: 03/28/2012

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/15/2012.

- 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : March 27, 2012

TO SPE OF : ART UNIT 1732
SUBJECT : Request for Certificate of Correction for Appl. No.: 11/191785, Patent No.: 7449164

Co f C mailroom date: 02-07-10

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

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.

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

Comments: _____

_____

_____

_____

_____

Curtis Mayes **SPE** | **1732** **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : April 4, 2012

TO SPE OF : ART UNIT 1732
SUBJECT : Request for Certificate of Correction for Appl. No.: 11/191785, Patent No.: 7520014 B2

Co f C mailroom date: 09-19-11

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

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: OK

/Thomas B Will/ — **SPE**
3671 — **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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INTEL CORPORATION
c/o CPA Global
P.O. BOX 52050
MINNEAPOLIS MN 55402

In re Application of
BENNETT, STEVEN M. et al. :
Application No.: 11/191,827 :
Filing or 371(c) Date: July 27, 2005 :
Attorney Docket Number: 42P21630 :

OCT 28 2010
DECISION ON
PETITION

This is a decision on the Petition To Withdraw Holding Of Abandonment, received in the United States Patent & Trademark (USPTO) on October 13, 2010.

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 May 10, 2010. The Notice of Abandonment was mailed August 25, 2010.

The Office acknowledges receipt of Part B – Fee(s) Transmittal on August 10, 2010, with unsigned PTO-2038 Credit Card Authorization Form to charge the Issue Fee. However, without the inclusion of the Deposit Account Number on the form there was no authorization to charge the required fees. On October 13, 2010 second transmittal was received to charge the fees to the Deposit Account **after the due date**.

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

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.
11/192,182	07/29/2005	Jun Sasaki	0445-0355PUS1	6922

2292 7590 03/07/2011

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

EXAMINER	
ZALUKAEVA, TATYANA	
ART UNIT	**PAPER NUMBER**
3761	

NOTIFICATION DATE	DELIVERY MODE
03/07/2011	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):

mailroom@bskb.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

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

In re Application of:
SASAKI, JUN et al
Serial No.: 11/192,182
Filed: July 29, 2005
Docket: 0445-0355PUS1
Title: PULL-ON DISPOSABLE DIAPER

: DECISION ON PETITION

This is a decision on the petition filed on March 2, 2011 seeking withdrawal of drawing objection for lack of dashed lines from numerals to underlying structure. This petition is being considered pursuant to 37 CFR §1.181.

The petition is **Granted.**

After consulting with the examiner, the requested relief is granted. In absence of any rejection of claims under 35 USC §112 relating to the drawing objection, the drawing objection as stated in the Paragraph 2 of the final rejection mailed on October 26, 2010 is hereby withdrawn.

The application is being forwarded to the examiner via the Supervisory Patent Examiner of Art Unit 3761 awaiting the applicant's appeal brief to the outstanding final Office action mailed on October 26, 2010. Any inquiry regarding this decision should be directed to Henry C. Yuen, Special Programs Examiner, at (571) 272-4856.

Petition granted.

Angela D. Sykes, Director
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

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.
11/192,489	07/29/2005	Robert P. Morris	I323/US	1216

49278 7590 01/26/2011

SCENERA RESEARCH, LLC
5400 Trinity Road
Suite 303
Raleigh, NC 27607

EXAMINER	
SMITH, GARRETT A	

ART UNIT	PAPER NUMBER
2168	

MAIL DATE	DELIVERY MODE
01/26/2011	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

John A. Demons
SCENERA RESEARCH, LLC
5400 Trinity Road
Suite 303
Raleigh, North Carolina 27607

In re Application of:
Robert P. MORRIS
Appl. No.: 11/192,489
Filed: July 07, 2005
For: METHOD AND SYSTEM FOR PROCESSING A WORKFLOW

DECISION ON PETITION
UNDER 37 CFR § 1.103(a)

This is a decision on the petition for suspension of prosecutions under 37 CFR § 1.103(a) filed on 21 January 2011.

The petition is **GRANTED**.

Pursuant to applicant's requests filed on 21 January 2011, action by the Office is suspended on this application under 37 CFR § 1.103(a) for a period of ***three (3) months from the mailing date of this letter***. At the end of this period, applicant is required to notify the examiner and request continuance of prosecution or a further suspension. See MPEP § 709.

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

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3613.

/Vincent N. Trans/
Vincent N. Trans, SPRE/QAS
Technology Center 2100
Computer Architecture and Software

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/192,489	07/29/2005	Robert P. Morris	1323/US	1216

49278 7590 04/28/2011
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EXAMINER	
SMITH, GARRETT A	

ART UNIT	PAPER NUMBER
2168	

MAIL DATE	DELIVERY MODE
04/28/2011	PAPER

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John A. Demons
SCENERA RESEARCH, LLC
5400 Trinity Road
Suite 303
Raleigh, North Carolina 27607

In re Application of:
Robert P. MORRIS
Appl. No.: 12/603,888
Filed: October 22, 2009
For: SYSTEM AND METHOD FOR TRACKING USER ACTIVITY RELATED TO NETWORK RESOURCES USING A BROWSER

DECISION ON PETITION UNDER 37 CFR § 1.103(a)

This is a decision on the petition for suspension of prosecutions under 37 CFR § 1.103(a) filed on 26 April 2011.

The petition is **GRANTED**.

Pursuant to applicant's requests filed on 26 April 2011, action by the Office is suspended on this application under 37 CFR § 1.103(a) for a period of ***three (3) months from the mailing date of this letter***. At the end of this period, applicant is required to notify the examiner and request continuance of prosecution or a further suspension. See MPEP § 709.

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

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3613.

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/192,489	07/29/2005	Robert P. Morris	1323/US	1216

49278 7590 08/01/2011

SCENERA RESEARCH, LLC
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EXAMINER	
SMITH, GARRETT A	

ART UNIT	PAPER NUMBER
2168	

MAIL DATE	DELIVERY MODE
08/01/2011	PAPER

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

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

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John A. Demons
SCENERA RESEARCH, LLC
5400 Trinity Road
Suite 303
Raleigh, North Carolina 27607

In re Application of:
Robert P. MORRIS
Appl. No.: 11/192,489
Filed: July 07, 2005
For: METHOD AND SYSTEM FOR PROCESSING A WORKFLOW

DECISION ON PETITION
UNDER 37 CFR § 1.103(a)

This is a decision on the petition for suspension of prosecutions under 37 CFR § 1.103(a) filed on 27 July 2011.

The petition is **GRANTED**.

Pursuant to applicant's requests filed on 27 July 2011, action by the Office is suspended on this application under 37 CFR § 1.103(a) for a period of ***three (3) months from the mailing date of this letter***. At the end of this period, applicant is required to notify the examiner and request continuance of prosecution or a further suspension. See MPEP § 709.

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

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3613.

/Vincent N. Trans/
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/192,489	07/29/2005	Robert P. Morris	1323/US	1216

49278 7590 11/04/2011
SCENERA RESEARCH, LLC
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Raleigh, NC 27607

EXAMINER	
SMITH, GARRETT A	

ART UNIT	PAPER NUMBER
2168	

MAIL DATE	DELIVERY MODE
11/04/2011	PAPER

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

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

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John A. Demons
SCENERA RESEARCH, LLC
5400 Trinity Road
Suite 303
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In re Application of:
Robert P. MORRIS
Appl. No.: 11/192,489
Filed: July 07, 2005
For: METHOD AND SYSTEM FOR PROCESSING A WORKFLOW

DECISION ON PETITION
UNDER 37 CFR § 1.103(a)

This is a decision on the petition for suspension of prosecutions under 37 CFR § 1.103(a) filed on 28 October 2011.

The petition is **GRANTED**.

Pursuant to applicant's requests filed on 28 October 2011, action by the Office is suspended on this application under 37 CFR § 1.103(a) for a period of ***three (3) months from the mailing date of this letter***. At the end of this period, applicant is required to notify the examiner and request continuance of prosecution or a further suspension. See MPEP § 709.

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

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3613.

/Vincent N. Trans/
Vincent N. Trans, SPRE/QAS
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Computer Architecture and Software

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/192,489	07/29/2005	Robert P. Morris	1323/US	1216

49278 7590 02/13/2012

SCENERA RESEARCH, LLC
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EXAMINER	
SMITH, GARRETT A	

ART UNIT	PAPER NUMBER
2168	

MAIL DATE	DELIVERY MODE
02/13/2012	PAPER

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

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

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John A. Demons
SCENERA RESEARCH, LLC
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Raleigh, North Carolina 27607

In re Application of:
Robert P. MORRIS
Appl. No.: 11/192,489
Filed: July 07, 2005
For: METHOD AND SYSTEM FOR PROCESSING A WORKFLOW

DECISION ON PETITION UNDER 37 CFR § 1.103(a)

This is a decision on the petition for suspension of prosecutions under 37 CFR § 1.103(a) filed on 07 February 2012.

The petition is **GRANTED**.

Pursuant to applicant's requests filed on 07 February 2012, action by the Office is suspended on this application under 37 CFR § 1.103(a) for a period of ***three (3) months from the mailing date of this letter***. At the end of this period, applicant is required to notify the examiner and request continuance of prosecution or a further suspension. See MPEP § 709.

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

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3613.

/Vincent N. Trans/
Vincent N. Trans, QAS
Technology Center 2100
Computer Architecture and Software

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DEC 09 2010

OFFICE OF PETITIONS

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

In re Application of :
Robey, et al. :
Application No. 11/192,511 : ON APPLICATION FOR
Filed: July 29, 2005 : PATENT TERM ADJUSTMENT
Atty Docket No. **16059US02** :

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 November 24, 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 one thousand five hundred and one (1,501) days, not six hundred and seventy-eight (678) 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].

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

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months

---

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

after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

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

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

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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CHRISTOPHER C. WINSLADE
McANDREWS, HELD & MALLOY, LTD.
34TH FLOOR
500 WEST MADISON ST.
CHICAGO IL 60661

MAILED
AUG 01 2011
OFFICE OF PETITIONS

In re Patent No.7,870,582 :
Robey, et al. : DECISION FOR REQUEST
Issue Date : January 11, 2011 : FOR RECONSIDERATION
Application No. 11/192,511 : OF PATENT TERM
Filed: July 29, 2005 : ADJUSTMENT
Attorney Docket No. **16059US02** :

This is a decision on the petition filed on March 7, 2011, which is being treated as a petition under 37 C.F.R. § 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand, four hundred and forty-five (1,445) days.

The petition is dismissed.

Patentees dispute the period of time excluded from B delay for appellate review. Patentee's argument has been considered, but not found persuasive. The period consumed by appellate review, whether successful or not, is excluded from the calculation of B delay. See 35 U.S.C. 154(b)(1)(B)(ii). An appeal to the Board of Patent Appeals and Interferences commences with the filing of a notice of appeal. See 35 U.S.C. 134(a). Generally, an appeal to the Board of Patent Appeals and Interferences ends with either 1) a Board decision, 2) the examiner reopening prosecution and issuing another Office action, or 3) the applicant filing a request to withdraw the appeal and reopen prosecution (e.g. the filing of a request for continued examination). In this instance the period consumed by appellate review is 129 days, beginning on the date of filing of the notice of appeal, May 11, 2009, and ending on September 16, 2009, the subsequent date of the mailing of the non-final Office action. Thus, B delay is 767 (896 - 129) days.

No change will be made to the patent term adjustment which is 1,380 days (740 days "A" delay + 767 days "B" delay - 65 days of overlap - 62 days of applicant delay).

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

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

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

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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Alexandria, VA 22313-1450
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FOLEY & LARDNER LLP
975 PAGE MILL ROAD
PALO ALTO, CA 94304

MAILED

MAR 26 2012

OFFICE OF PETITIONS

In re Application of
Daniel G. Moro, et al.
Application No. 11/192,524
Filed: July 29, 2005
Attorney Docket No. 065284-0400

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 29, 2012.

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 Antoinette F. Konski on behalf of all attorneys of record who are associated with customer No. 38706. All attorneys/agents associated with the Customer Number 38706 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

There are no pending Office actions at the present time.

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

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

cc: ULURU, INC
4452 BELTWAY DRIVE
ADDISON, TX 75001

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/192,524	07/29/2005	Daniel G. Moro	065284-0400

CONFIRMATION NO. 7536

POWER OF ATTORNEY NOTICE

38706
FOLEY & LARDNER LLP
975 PAGE MILL ROAD
PALO ALTO, CA 94304

OC00000005297983

Date Mailed: 03/08/2012

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/29/2012.

- 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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BURTON IP LAW GROUP/HITACHI GLOBAL STORAGE TECHNOLOGIES NETHERLANDS BV
2029 CENTURY PARK EAST SUITE 1400
LOS ANGELES CA 90067

MAILED

MAY 09 2011

OFFICE OF PETITIONS

In re Application of	:	
Kimitoshi ETOH	:	
Application No. 11/192,532	:	DECISION ON PETITION
Filed: July 29, 2005	:	
Attorney Docket No. **010010-013**	:	

This is a decision on the petition, filed March 14, 2011, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

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

This application was held abandoned for failure to reply to the Notice of Non-Compliant Amendment mailed August 26, 2010, which set a one (1) month shortened statutory period for reply. A Notice of Abandonment was mailed on September 27, 2010.

Petitioner request withdrawal of the abandonment asserting that the Office action dated August 26, 2010 was mailed to assignee's prior counsel.

A review of the Office records indicates that a power of attorney was filed September 23, 2010 however this was after the mailing of the Office action of August 26, 2010. 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 practitioners at the address of record during that time.

The petition fails to satisfy the requirements under 37 CFR 1.181.

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), **$1,620.00 for a large entity**;
>
> (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

A form for filing a petition to revive an unintentionally abandoned application accompanies this decision for petitioner's convenience. If petitioner desires to file a petition under 37 CFR 1.137(b) instead of filing a request for reconsideration, petitioner must complete the enclosed petition form (PTO/SB/64) and pay the $1,620.00 petition fee.

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

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 Michelle R. Eason at (571) 272-4231.

/Thurman K. Page/

Thurman K. Page
Petitions Examiner
Office of Petitions

Enclosures: Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b); Form PTO/SB/64, Privacy Act Statement; and a copy of the Office action dated mailed August 26, 2010.

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49528 e 08/26/2010

TOWNSEND AND TOWNSEND AND CREW LLP
TWO EMBARCADERO CENTER, 8TH FLOOR
SAN FRANCISCO, CA 94111

Paper No.

Application No.:	**11/192,532**	**Date Mailed:**	**08/26/2010**
First Named Inventor:	Etoh, Kimitoshi,	Examiner:	MILLER, BRIAN E
Attorney Docket No.:	16869Q-153700US	Art Unit:	2627
Confirmation No.:	7546	Filing Date:	07/29/2005

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

Commissioner for Patents

Notice of Non-Compliant Amendment (37 CFR 1.121)	Application No. 11/192,532	Applicant(s) ETOH ET AL.	
		Art Unit 1700	

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

The amendment document filed on *23 August, 2010* is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121 or 1.4. In order for the amendment document to be compliant, correction of the following item(s) is required.

THE FOLLOWING MARKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

- ☐ 1. Amendments to the specification:
  - ☐ A. Amended paragraph(s) do not include markings.
  - ☐ B. New paragraph(s) should not be underlined.
  - ☐ C. Other _____.
- ☐ 2. Abstract:
  - ☐ A. Not presented on a separate sheet. 37 CFR 1.72.
  - ☐ B. Other _____.
- ☐ 3. Amendments to the drawings:
  - ☐ A. The drawings are not properly identified in the top margin as "Replacement Sheet," "New Sheet," or "Annotated Sheet" as required by 37 CFR 1.121(d).
  - ☐ B. The practice of submitting proposed drawing correction has been eliminated. Replacement drawings showing amended figures, without markings, in compliance with 37 CFR 1.84 are required.
  - ☐ C. Other _____.
- ☒ 4. Amendments to the claims:
  - ☐ A. A complete listing of all of the claims is not present.
  - ☒ B. The listing of claims does not include the text of all pending claims (including withdrawn claims)
  - ☐ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified. Note: the status of every claim must be indicated after its claim number by using one of the following status identifiers: (Original), (Currently amended), (Canceled), (Previously presented), (New), (Not entered), (Withdrawn) and (Withdrawn-currently amended).
  - ☐ D. The claims of this amendment paper have not been presented in ascending numerical order.
  - ☐ E. Other: _____.
- ☐ 5. Other (e.g., the amendment is unsigned or not signed in accordance with 37 CFR 1.4): For further explanation of the amendment format required by 37 CFR 1.121, see MPEP § 714.

TIME PERIODS FOR FILING A REPLY TO THIS NOTICE:

1. Applicant is given **no new time period** if the non-compliant amendment is an after-final amendment or an amendment filed after allowance, or a drawing submission (only) If applicant wishes to resubmit the non-compliant after-final amendment with corrections, the **entire corrected amendment** must be resubmitted.

2. Applicant is given **one month**, or thirty (30) days, whichever is longer, from the mail date of this notice to supply the correction, if the non-compliant amendment is one of the following: a preliminary amendment, a non-final amendment (including a submission for a request for continued examination (RCE) under 37 CFR 1.114), a supplemental amendment filed within a suspension period under 37 CFR 1.103(a) or (c), and an amendment filed in response to a Quayle action. If any of above boxes 1 to 4 are checked, the correction required is only the corrected section of the non-compliant amendment in compliance with 37 CFR 1.121.

Extensions of time are available under 37 CFR 1.136(a) only if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action.

Failure to timely respond to this notice will result in:

Abandonment of the application if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action; or

Non-entry of the amendment if the non-compliant amendment is a preliminary amendment or supplemental amendment.

Legal Instruments Examiner (LIE), if applicable /FELICIA JENKINS/ Telephone No: (571)272-0986

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BURTON IP LAW GROUP/HITACHI GLOBAL STORAGE TECHNOLOGIES NETHERLANDS BV
2029 CENTURY PARK EAST SUITE 1400
LOS ANGELES CA 90067

MAILED
AUG 01 2011
OFFICE OF PETITIONS

In re Application of	:	
Kimitoshi ETOH et al.	:	
Application No. 11/192,532	:	DECISION ON PETITION
Filed: July 29, 2005	:	
Attorney Docket No. 010010-013	:	

This is a decision on the 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**.

This application was held abandoned for failure to reply to the Office action mailed August 26, 2010, which set a one (1) month period for reply. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on September 07, 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. Accordingly, the reply to Office action of August 26, 2010 is accepted as having been unintentionally delayed.

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

This application is being referred to Technology Center AU 2627 for appropriate action by the Examiner in the normal course of business on the reply received.

Michelle R. Eason
Paralegal Specialist
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	11192673
Filing Date	29-Jul-2005
First Named Inventor	Jason Kaufman
Art Unit	2168
Examiner Name	GARRETT SMITH
Attorney Docket Number	13196/8
Title	System and method for facilitating a guided assembly of people

◉ Please withdraw me as attorney or agent for the above identified patent application and the practitioners of record associated with Customer Number: 26646

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	Jason Kaufman Ta-Da Inc.
Address	340 E23rd Street, Apt. 4L
City	New York
State	NY
Postal Code	10010
Country	US

I am authorized to sign on behalf of myself and all withdrawing practitioners.	
Signature	/Michelle Carniaux/
Name	Michelle Carniaux
Registration Number	36098

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Decision Date : April 6,2011

In re Application of :

Jason Kaufman

Application No : 11192673

Filed : 29-Jul-2005

Attorney Docket No : 13196/8

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 6,2011

The request is **APPROVED.**

The request was signed by Michelle Carniaux (registration no. 36098) on behalf of all attorneys/agents associated with Customer Number 26646 . All attorneys/agents associated with Cusotmer Number 26646 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	Jason Kaufman
Name2	Ta-Da Inc.
Address 1	340 E23rd Street, Apt. 4L
Address 2	
City	New York
State	NY
Postal Code	10010
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.: _____

DATE : 3/19/11

TO SPE OF : ART UNIT 3737

SUBJECT : Request for Certificate of Correction for Appl. No.: 11192749 Patent No.: 7758510

CofC mailroom date: 03/07/11

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

[redacted]

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

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

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

Comments: _____

_____

_____

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

/Brian L. Casler/ **SPE** **Art Unit 3737**

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LEIGHTON K. CHONG
PATENT ATTORNEY
133 KAAI STREET
HONOLULU HI 96821

MAILED
JAN 04 2012
OFFICE OF PETITIONS

In re Patent No. 7,573,983 :
Issue Date: July 11, 2009 :
Application No. 11/192,843 : DECISION ON PETITION
Filed: July 28, 2005 :
Attorney Docket No. TSU-P21 :

This is a decision on the Request Under 37 CFR 3.81(B) To Correct Assignee Due To Applicant's Error Providing Incorrect Assignment Data, filed March 15, 2010, to accept the omission of the co-assignee's name. A completed Certificate of Correction Form was previously submitted.

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

Petitioner requests that the present petition was submitted to accept the omission of the co-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 co-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. 7,573,983.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : **11/21/11**

TO SPE OF : ART UNIT: **1626 Attn: MCKANE JOSEPH K (SPE)**

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/192867 Patent No.: 7491725

CofC mailroom date: 05/11/2010

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 Please check Other Publications for the Requested correction, should the spelling be corrected or not

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

Thank You For Your Assistance

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

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

Comments: All changes approved.

/Joseph K. McKane/ 1626

SPE Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 7314293
Issue Date: January 1,2008
Application No. 11193101
Filed: July 29,2005
Attorney Docket No. RADAR-44112

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

This is a decision on the electronic petition, filed March 27,2012 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of March 27,2012 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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)
7314293	2008-01-01	11193101	2005-07-29	51200.001

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

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

SURCHARGE

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

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

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.

A Joint Patentee and I certify that I am authorized to sign this submission on behalf of all the other patentees			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature.			
Signature	/ Frederick Steier /	Date (YYYY-MM-DD)	2012-03-27
Name	Frederick Steier		

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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Nixon Peabody LLP
P.O. Box 60610
Palo Alto CA 94306

MAILED

AUG 04 2010

OFFICE OF PETITIONS

In re Application of :
Siddha et al. :
Application No. 11/193134 : ON PETITION
Filing Date: 07/28/2005 :
Attorney Docket Number: :
IPIN-0004 (434997-009) :

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

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of April 2, 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). Accordingly, the date of abandonment of this application is July 30, 2009.

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

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

This application is being referred to Technology Center AU 2475 for processing of the RCE and for appropriate action on the amendment by the Examiner in the normal course of business.

/Derek L. Woods/

Derek L. Woods
Attorney
Office of Petitions

Doc code : PET.OP.AGE
Description : Petition to make special based on Age/Health

PTO/SB/130 (07-09)
Approved for use through 07/31/2012. OMB 0651- 0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number

PETITION TO MAKE SPECIAL BASED ON AGE FOR ADVANCEMENT OF EXAMINATION UNDER 37 CFR 1.102(c)(1)

Application Information

Application Number	11/193,165	Confirmation Number	8583	Filing Date	2011-10-24
Attorney Docket Number (optional)	4544-052088	Art Unit	1646	Examiner	Bruce D Hissong
First Named Inventor	Abburi Ramaiah				
Title of Invention	Method for Treatment of Vitiligo				

Attention: Office of Petitions
An application may be made special for advancement of examination upon filing of a petition showing that the applicant is 65 years of age, or more. No fee is required with such a petition. See 37 CFR 1.102(c)(1) and MPEP 708.02 (IV).

APPLICANT HEREBY PETITIONS TO MAKE SPECIAL FOR ADVANCEMENT OF EXAMINATION IN THIS APPLICATION UNDER 37 CFR 1.102(c)(1) and MPEP 708.02 (IV) ON THE BASIS OF THE APPLICANT'S AGE.

A grantable petition requires one of the following items:
(1) Statement by one named inventor in the application that he/she is 65 years of age, or more; or
(2) Certification by a registered attorney/agent having evidence such as a birth certificate, passport, driver's license, etc. showing one named inventor in the application is 65 years of age, or more.

Name of Inventor who is 65 years of age, or older

Given Name	Middle Name	Family Name	Suffix
Abburi		Ramaiah	

A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18.
Please see 37 CFR 1.4(d) for the format of the signature.

Select (1) or (2) :

○ (1) I am an inventor in this application and I am 65 years of age, or more.

◉ (2) I am an attorney or agent registered to practice before the Patent and Trademark Office, and I certify that I am in possession of evidence, and will retain such in the application file record, showing that the inventor listed above is 65 years of age, or more.

Signature	/WilliamH.Logsdon/	Date (YYYY-MM-DD)	2011-10-24
Name	William H. Logsdon	Registration Number	22132

PTO/SB/130 (07-09)
Approved for use through 07/31/2012. OMB 0651- 0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Application of
Abburi Ramaiah

Application No. 11193165

Filed: July 29,2005

Attorney Docket No. 4544-052088

:
:
: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 24-OCT-2011 to make the above-identified application special based on applicant's age as set forth in MPEP § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1), MPEP § 708.02, Section IV: Applicant's Age must include a statement by applicant or a registered practitioner having evidence that applicant is at least 65 years of age. No fee is required.

Accordingly, the above-identified application has been accorded "special" status and will be taken up for action by the examiner upon the completion of all pre-examination processing.

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

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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AUG 04 2010

OFFICE OF PETITIONS

SZEGIEN PETER CHOW
22617 NE 169TH STREET
WOODINVILLE, WA 98077

In re Application of :
Postel et al. :
Application No. 11/193,176 : ON PETITION
Filed: July 29, 2005 :
Attorney Docket No. FAST 001 :

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

The petition is **GRANTED**.

The application became abandoned for failure to file a reply within the meaning of 37 CFR 1.113 to the final Office action of March 4, 2009. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that prima facie places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is June 5, 2009.

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

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.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $555 extension of time fee submitted with the petition on June 9, 2010, was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account as authorized.

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

This application is being referred to Technology Center AU 2169 for processing of the RCE and for appropriate action by the Examiner in the normal course of business in accordance with 37 CFR 1.114.

Carl Friedman
Petitions Examiner
Office of Petitions

cc: VLADIMIR RASKIN
TOWNSEND AND TOWNSEND AND CREW, LLP
2 EMBARCADERO CENTER
8TH FLOOR
SAN FRANCISCO, CA 94111-3834

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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WOODCOCK WASHBURN LLP
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA PA 19104-2891

MAILED
JUN 23 2011
OFFICE OF PETITIONS

In re Patent No. 7,595,543 :
Issue Date: September 29, 2009 :
Application No. 11/193,183 : ON PETITION
Filed: July 29, 2005 :
Attorney Docket No. OERL-007/ 537539 :
USC1

This is a decision on the petition filed March 3, 2010, which will be treated as a request under 37 CFR 3.81(b) to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **GRANTED**.

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

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

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

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 7205060
Issue Date: April 17,2007
Application No. 11193303
Filed: July 29,2005
Attorney Docket No. ULTRP008

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

This is a decision on the electronic petition, filed November 28,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of November 28,2011 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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)
7205060	2007-04-17	11193303	2005-07-29	630-ULTRP008

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

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

SURCHARGE

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

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

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

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	/EHK/	Date (YYYY-MM-DD)	2011-11-28
Name	Edwin H. Keusey, Esq.	Registration Number	34361

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

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MAILED

MAR 25 2011

OFFICE OF PETITIONS

J.M. Robertson, LLC
PO Box 4778
Rockford IL 61110

In re Application of

Morin, et al.

Application No. 11/193,515

Filed: July 29, 2005

Attorney Docket No. **2029A**

DECISION ON PETITION

This is a decision on the "Petition for Revival of an Application Abandoned Unavoidably/Unintentionally", filed February 15, 2011. The petition will also be treated as a petition to withdraw the holding of abandonment under 37 CFR 1.181(a).

The petition under 37 CFR 1.137(a) is **dismissed as moot**.

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

This application was held abandoned October 23, 2010, after no reply was received to the non-final Office action mailed July 22, 2010. The notice set forth a shortened statutory period of reply of three months from its mailing date. No response was received within the allowable period and the application became abandoned on October 23, 2010. A Notice of Abandonment was mailed February 23, 2011. The instant petition was filed on February 15, 2011. Petitioner maintains that the notice of July 22, 2010, was not received.

The petition under 37 CFR 1.137(a) is being dismissed as moot because, under the circumstances as set forth in the petition, the appropriate relief is granted via a petition under 37 CFR 1.181 to withdraw the holding of abandonment.

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

> To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.

Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.

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

Petitioner has not made the evidentiary showing specified above. The petition is dismissed accordingly. The renewed petition must be accompanied by a copy of the firm's master docket record for the relevant period or a statement indicating that no such master docket for the firm exists. Petitioner should not that this requirement for the relevant docket record must be satisfied notwithstanding petitioner's assertion that the Office mailed the correspondence to incorrect address.

The petition under 37 CFR 1.181 to withdraw the holding of abandonment has no fee. Accordingly, the amount of $810.00 will be refunded to petitioner, in due course.

Alternatively, if petitioner is not able to meet the requirements for a successful petition to withdraw the holding of abandonment, petitioner may revive the application based on unintentional abandonment under 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by the required reply, the required petition fee ($1,620.00 for a large entity and $810.00 for a verified small entity), and a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

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

By mail: Commissioner for Patents
United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

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

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

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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J.M. Robertson, LLC
PO Box 4778
Rockford IL 61110

MAILED
APR 25 2011
OFFICE OF PETITIONS

In re Application of

Morin, et al.

Application No. 11/193,515

Filed: July 29, 2005

Attorney Docket No. **2029A**

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed March 31, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, July 22, 2010, which set a shortened statutory period for reply of three (3) months from its mailing date. No extension of time pursuant to 37 CFR 1.136(a) was obtained within the allowable period. Accordingly, the application became abandoned on October 23, 2010. A Notice of Abandonment was mailed February 23, 2011.

The amendment filed February 15, 2011, is noted.

The application is being forwarded to Technology Center 1700, GAU 1786 for further processing.

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

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 7210609
Issue Date: May 1,2007
Application No. 11193600
Filed: July 29,2005
Attorney Docket No. 129.101

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

This is a decision on the electronic petition, filed May 23,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of May 23,2011 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7210609	2007-05-01	11193600	2005-07-29	129.101

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

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

SURCHARGE

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

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

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

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	/Brian Roffe/	Date (YYYY-MM-DD)	2011-05-23
Name	Brian Roffe	Registration Number	35336

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

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P.O. Box 1450
Alexandria, VA 22313-1450
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GORDON K ANDERSON
14632 PACIFIC STREET
TUSTIN, CA 92780

MAILED

JAN 11 2011

OFFICE OF PETITIONS

In re Patent No. **7,071,446**
Issue Date: July 4, 2006
Application No. 11/193,829
Filed: August 1, 2005
Attorney Docket No. **BENCH #105**

DECISION ON PETITION
UNDER 37 CFR 1.378(c)

This is a decision on the petition under 37 CFR 1.378(c), filed September 3, 2010, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired at midnight on July 4, 2010 for failure to pay the 3½ year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The 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 Monica A. Graves at (571) 272-7253.

The patent file is being forwarded to Files Repository.

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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VISTA PRINT USA, INC.
ATTN: PATENT COUNSEL
95 HAYDEN AVENUE
LEXINGTON MA 02421

MAILED

NOV 18 2010

OFFICE OF PETITIONS

In re Application of :
Brian D. Hanechak :
Application No. 11/193,951 : DECISION ON PETITION
Filed: July 29, 2005 :
Attorney Docket No. **05-007** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 4, 2010, to revive the above-identified application.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed December 10, 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 11, 2010.

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

The petition is hereby **GRANTED**.

A terminal disclaimer is only necessary when a utility/plant application is filed on or after June 8, 1995. Therefore, the terminal disclaimer submitted with the instant petition is unnecessary and the fee will be credited to petitioner's deposit account as authorized.

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

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

This application is being referred to Technology Center AU 2625 for appropriate action by the Examiner in the normal course of business.

JoAnne Burke
Petitions Examiner
Office of Petitions

cc: Jessica Costa
95 Hayden Ave
Lexington, MA 02421

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 20,2011

In re Application of :

Brian Hanechak

Application No : 11193951

Filed : 29-Jul-2005

Attorney Docket No : 05-007

DECISION ON PETITION

UNDER CFR 1.137(b)

This is an electronic decision on the petition under 37 CFR 1.137(b), filed June 20,2011 , to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Allowance and Issue Fee(s) Due. The date of abandonment is the day after the expiration date of the period set for reply in the Notice.

The electronic petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the Issue Fee and the Publication Fee (if necessary); (2) the petition fee as set forth in 37 CFR 1.17 (m); (3) the drawing correction and/or other deficiencies (if necessary); and (4) the required statement of unintentional delay have been received. Accordingly, the Issue Fee payment is accepted as having been unintentionally delayed.

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

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

This application file is being directed to the Office of Data Management.

Office of Petitions

Doc Code: PET.AUTO Document Description: Petition automatically granted by EFS-Web	PTO/SB/64 U.S. Patent and Trademark Office Department of Commerce

Electronic Petition Request	PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)
Application Number	11193951
Filing Date	29-Jul-2005
First Named Inventor	Brian Hanechak
Art Unit	2625
Examiner Name	CHARLOTTE BAKER
Attorney Docket Number	05-007
Title	AUTOMATED IMAGE SIZING AND PLACEMENT

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus any extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee – required for all utility and plant applications filed before June 8, 1995; and for all design applications;
(4) Statement that the entire delay was unintentional.

Petition fee
The petition fee under 37CFR 1.17(m) is attached.

☐ Applicant claims SMALL ENTITY status. See 37 CFR 1.27.

☒ Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

☐ Applicant(s) status remains as SMALL ENTITY.

☐ Applicant(s) status remains as other than SMALL ENTITY.

Issue Fee and Publication Fee :

Issue Fee and Publication Fee are not due.

☒ Issue Fee Transmittal is attached

Drawing corrections and/ or other deficiencies.

◉ Drawing corrections and/ or other deficiencies are not required

○ I certify, in accordance with 37 CFR 1.4.(D)(4), that drawing corrections and/ or other deficiencies have previously been filed on

○ Drawing corrections and/ or other deficiencies are attached.

☒ STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional.

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

○ An attorney or agent registered to practice before the Patent and Trademark Office who has been given power of attorney in this application.

◉ An attorney or agent registered to practice before the Patent and Trademark Office, acting in a representative capacity.

○ A sole inventor

○ A joint inventor; I certify that I am authorized to sign this submission on behalf of all of the inventors.

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

○ The assignee of record of the entire interest that has properly made itself of record pursuant to 37 CFR 3.71.

Signature	/Jessica J. Costa/
Name	Jessica J. Cossta
Registration Number	41065

Doc Code: PET.AUTO Document Description: Petition automatically granted by EFS-Web	PTO/SB/64 U.S. Patent and Trademark Office Department of Commerce

Electronic Petition Request	PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)
Application Number	11193951
Filing Date	29-Jul-2005
First Named Inventor	Brian Hanechak
Art Unit	2625
Examiner Name	CHARLOTTE BAKER
Attorney Docket Number	05-007
Title	AUTOMATED IMAGE SIZING AND PLACEMENT

OPAP IAP5 JUN 20 2011 PATENT & TRADEMARK OFFICE

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus any extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee – required for all utility and plant applications filed before June 8, 1995; and for all design applications;
(4) Statement that the entire delay was unintentional.

Petition fee
The petition fee under 37CFR 1.17(m) is attached.

☐ Applicant claims SMALL ENTITY status. See 37 CFR 1.27.

☒ Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

☐ Applicant(s) status remains as SMALL ENTITY.

☐ Applicant(s) status remains as other than SMALL ENTITY.

Issue Fee and Publication Fee :

06/20/2011 INTEFSW 00000003 11193951
01 FC:1453 1620.00 DA

Issue Fee and Publication Fee are not due.

☒ Issue Fee Transmittal is attached

Drawing corrections and/ or other deficiencies.

◉ Drawing corrections and/ or other deficiencies are not required

○ I certify, in accordance with 37 CFR 1.4.(D)(4), that drawing corrections and/ or other deficiencies have previously been filed on

○ Drawing corrections and/ or other deficiencies are attached.

☒ STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional.

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

○ An attorney or agent registered to practice before the Patent and Trademark Office who has been given power of attorney in this application.

◉ An attorney or agent registered to practice before the Patent and Trademark Office, acting in a representative capacity.

○ A sole inventor

○ A joint inventor; I certify that I am authorized to sign this submission on behalf of all of the inventors.

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

○ The assignee of record of the entire interest that has properly made itself of record pursuant to 37 CFR 3.71.

Signature	/Jessica J. Costa/
Name	Jessica J. Cossta
Registration Number	41065

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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Cameron Kerrigan
Squire, Sanders & Dempsey LLP
Suite 300
One Maritime Plaza
San Francisco, CA 94111-3492

Mail Date: 08/05/2010

Applicant	: Patrick P. Wu	: DECISION ON REQUEST FOR
Patent Number	: 7658880	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/194,089	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/29/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1226** 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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KILPATRICK TOWNSEND & STOCKTON LLP
ADOBE SYSTEMS, INC. 58083
1100 PEACHTREE STREET
SUITE 2800
ATLANTA GA 30309-4530

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JUN 23 2011

OFFICE OF PETITIONS

In re Application of
Sho Kuwamoto et al.
Application No. 11/194,118
Filed: July 29, 2005
Attorney Docket No. 58083/375149

: DECISION ON REQUEST
: FOR RECONSIDERATION
: OF PATENT TERM ADJUSTMENT

This is a decision on the REQUEST FOR RECONSIDERATION OF PATENT TERM INDICATED ON PATENT PURSUANT TO 37 C.F.R. 1.705 (d) filed June 16, 2011, requesting correction of the patent term adjustment indicated on the above-identified patent from 1506 days to 1507 days.

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

Applicants contest the application(s) of 37 CFR § 1.704(b) to reduce the patent term adjustment by three (3) 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.

A Final Office Action was mailed on December 28, 2009 and the response therefore was due on March 28, 2009. March 28, 2009 was a Sunday and thus, the response was received on March 29, 2009 which is three months and one day later. As such, a reduction of one day was assessed. Patentees have argued that this is improper, as March 28, 2009 fell on a weekend. However, Petitioner will note that 35 U.S.C. 154(b)(2)(C)(ii)[1] does not require that a reply be filed in the Office within its three (3) month grace period, but simply specifies that there is a patent term adjustment reduction if a reply is not filed within this three (3) month period. Therefore, the "carry-over" provisions of 35 U.S.C. § 21(b)[2] does not apply to the three (3) month period in 35 U.S.C. 154(b)(2)(C)(ii).

In view thereof, the patent term adjustment indicated in the patent is properly reflected.

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 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
Senior Petitions Attorney
Office of Petitions

[1] "With respect to adjustments to patent term made under the authority of paragraph (1)(B), an applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of 3 months that are taken to respond to a notice from the Office making any rejection, objection, argument, or other request, measuring such 3-month period from the date the notice was given or mailed to the applicant."

[2] "When the day, or the last day, for taking any action or paying any fee in the United States Patent and Trademark Office falls on Saturday, Sunday, or a Federal holiday within the District of Columbia, the action may be taken, or fee paid, on the next succeeding secular or business day."

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DEC 13 2011
OFFICE OF PETITIONS

DEMONT & BREYER, LLC
100 COMMONS WAY, Ste. 250
HOLMDEL NJ 07733

In re Patent of :
Spain et al. :
Pat. Num./Pub. Num: 7383051 :
Issue Date: 06/03/2008 :
Application No. 11/194151 :
Filing or 371(c) Date: 08/01/2005 : ON PETITION
Attorney Docket Number: 465-029US :

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

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

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

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

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

/DLW/

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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ZILKA-KOTAB, PC
P.O. BOX 721120
SAN JOSE, CA 95172-1120

MAILED

APR 29 2011

OFFICE OF PETITIONS

In re Application of
Oded HOROVITZ, *et al.*
Application No. 11/194,300
Filed: August 1, 2005
Attorney Docket No. **NAI1P436/05.014.01**

DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 24, 2011.

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

A review of the file record indicates that the power of attorney to **ZILKA-KOTAB, PC** has been revoked by the assignee of the patent application on March 8, 2011. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to the undersigned at 571-272- 7253.

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

cc: **PATENT CAPITAL GROUP**
6119 MCCOMMAS BOULEVARD
DALLAS, TX 75214

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.
11/194,351	08/01/2005	Keisuke Aoyama	13645.0008	9538

33649 7590 08/26/2010

Mr. Christopher John Rourk
Jackson Walker LLP
901 Main Street, Suite 6000
DALLAS, TX 75202

EXAMINER	
MEINECKE DIAZ, SUSANNA M	
ART UNIT	PAPER NUMBER
3684	

MAIL DATE	DELIVERY MODE
08/26/2010	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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AUG 26 2010

Christopher J. Roark
Jackson Walker L.L.P.
901 Main Street, Suite 6000
Dallas, TX 75202

In re Application of	:	DECISION ON PETITION
Keisuke AOYAMA et al.	:	UNDER 37 C.F.R. § 1.181
Application No. 11/194,351	:	
Filed: August 1, 2005	:	
For: SYSTEM AND METHOD FOR	:	
DISTRIBUTION CHAIN MANAGEMENT	:	

This is a decision on the petition, filed October 1, 2009, under 37 CFR § 1.181 to withdraw the rejection of claims 21-27 under 35 U.S.C. § 112 2nd paragraph given in the Office action mailed on September 17, 2009.

The petition is **DISMISSED**.

Applicants alleged that the rejection of claims 21-27 under 35 U.S.C. § 112 second paragraph in regards to invocation of the 35 U.S.C. § 112 6th paragraph were improper, and that the examiner misapplies MPEP 2181 with regard to the means-plus-function limitations.

A review of the prosecution history showed that a first non-final Office action was mailed on February 4, 2009 in which claims 21-27 were rejected on 112, second paragraph because the "means plus function" limitations do not have corresponding structures disclosed in the written specification. Applicants filed an amendment to the claims and arguments on June 4, 2009 in response to the Office action. The examiner mailed a second non-final Office action on September 17, 2009 in which claims 21-27 were rejected under 35 U.S.C. § 112 2nd paragraph for claiming both the product and process in the same claim. Applicants timely filed this petition on October 1, 2009 to request withdrawal of the 112 second paragraph rejection of claims 21-27 arguing that the 112 second paragraph rejection on the means-plus-function limitations is improper, and the examiner should have applied the 3-prong analysis set forth in MPEP 2181 with regard to the means-plus-function claim language. Applicants subsequently filed an amendment and arguments on January 19, 2010 responding to the September 17, 2009 Office action including the same arguments on the 112 second paragraph rejection. The examiner issued a final Office action on March 16, 2010 repeating the 112 second paragraph rejection with clarification that the rejection is intended to address the product and process limitations in the same claim, not the means-plus-function limitations.

MPEP § 1201 states that "The line of demarcation between appealable matters for the Board of Patent Appeals and Interferences (Board) and petitionable matters for the Director of the U.S. Patent and Trademark Office (Director) should be carefully observed. The Board will not ordinarily hear a question that should be decided by the Director on petition, and the Director will not ordinarily entertain a petition where the question presented is a matter appealable to the Board ..."

The issues raised by applicant are questions relate to the merits which go to the patentability of the claims. As such, these questions are matters appealable to the Board of Patent Appeals and Inferences, and not petitionable matters. MPEP § 1201 further states that "Where the differences of opinion concern the denial of patent claims because of prior art or other patentability issues, the questions thereby raised are said to relate to the merits, and appeal procedure within the Office and to the courts has long been provided by statute (35 U.S.C. 134)."

Pursuant to MPEP § 1201, the petition is dismissed. Further, pursuant to 37 C.F.R. § 1.181(f), the shortened statutory period for reply is continued to run three months from the mailing date of the Office Action.

Questions concerning this decision should be referred to Supervisory Patent Examiner Kambiz Abdi at (571) 272-6702.

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

ka/lm: 8/11/10

LM

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Cummins-Allison Corp.
C/O Nixon Peabody LLP
300 S. Riverside Plaza
16th Floor
Chicago, IL 60606

MAILED

NOV 03 2010

OFFICE OF PETITIONS

In re Patent No. 7,602,956 :
Jones et al. : DECISION UPON REMAND AND
Issue Date: October 13, 2009 : RECONSIDERATION OF
Application No. 11/194,380 : PATENT TERM ADJUSTMENT
Filed: August 1, 2005 : AND NOTICE OF INTENT
Attorney Docket No. 247171-000298USD1 : TO ISSUE CERTIFICATE OF CORRECTION
Title: DOCUMENT PROCESSING SYSTEM USING FULL IMAGING SCANNING :

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 thirty-five (935) days.

A telephone call was made to Mr. David McKone on November 2, 2010 to confirm the amount of nine hundred and thirty-five days as the PTA determination.

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 thirty-five (935) days.

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

/Kery A. Fries/

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,602,956

DATED : **October 13, 2009** **DRAFT**

INVENTOR(S) : Jones 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 690 days

Delete the phrase "by 690 days" and insert – by 935 days--

Day : Wednesday

PALM INTRANET

Date: 11/3/2010
Time: 09:22:29

PTA Calculations for Application: 11/194380			
Application Filing Date:	08/01/2005	PTO Delay (PTO):	690
Issue Date of Patent:	10/13/2009	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	0
Post-Issue Petitions:	0	Total PTA (days):	935
PTO Delay Adjustment:	245		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
71	11/03/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	245		
62.5	09/23/2009	PTA 36 MONTHS			
62	10/13/2009	PATENT ISSUE DATE USED IN PTA CALCULATION			
61	08/31/2009	EXPORT TO FINAL DATA CAPTURE			
60	08/28/2009	DISPATCH TO FDC			
59	08/27/2009	APPLICATION IS CONSIDERED READY FOR ISSUE			
58	08/25/2009	ISSUE FEE PAYMENT VERIFIED			
57	08/25/2009	ISSUE FEE PAYMENT RECEIVED			
56	07/14/2009	EXPORT TO INITIAL DATA CAPTURE			
55	07/09/2009	MAIL NOTICE OF ALLOWANCE			
54	07/07/2009	ISSUE REVISION COMPLETED			
53	07/07/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
52	07/07/2009	CASE DOCKETED TO EXAMINER IN GAU			
51	07/07/2009	DOCUMENT VERIFICATION			
50	07/06/2009	NOTICE OF ALLOWABILITY			
48	04/24/2009	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
47	04/28/2009	FINISHED INITIAL DATA CAPTURE			
46	05/02/2009	DATE FORWARDED TO EXAMINER			
45	04/24/2009	REQUEST FOR CONTINUED EXAMINATION (RCE)			
44	05/02/2009	DISPOSAL FOR A RCE / CPA / R129			
43	04/24/2009	REFERENCE CAPTURE ON IDS			
42	04/24/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			

41	04/24/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
40	04/24/2009	WORKFLOW - REQUEST FOR RCE - BEGIN			
39	04/09/2009	RECEIPT INTO PUBS			
38	03/24/2009	EXPORT TO INITIAL DATA CAPTURE			
37	03/20/2009	MAIL NOTICE OF ALLOWANCE			
36	03/17/2009	ISSUE REVISION COMPLETED			
35	03/17/2009	DOCUMENT VERIFICATION			
34	03/17/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
33	03/16/2009	NOTICE OF ALLOWABILITY			
31	12/23/2008	DATE FORWARDED TO EXAMINER			
30	11/21/2008	RESPONSE AFTER NON-FINAL ACTION			
29	08/21/2008	MAIL NON-FINAL REJECTION	690		-1
28	08/04/2008	NON-FINAL REJECTION			
27	10/14/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
26	08/26/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
25	10/31/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
24	12/17/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
20	12/17/2007	REFERENCE CAPTURE ON IDS			
19	12/17/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
18	12/17/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
17	10/31/2007	REFERENCE CAPTURE ON IDS			
16	10/31/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
15	10/31/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
14	09/26/2006	CASE DOCKETED TO EXAMINER IN GAU			
13	06/14/2006	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
12	06/14/2006	CASE DOCKETED TO EXAMINER IN GAU			
11	08/26/2005	REFERENCE CAPTURE ON IDS			
10.7	08/26/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
		INFORMATION DISCLOSURE STATEMENT (IDS)			

10	08/26/2005	FILED			
9	10/14/2005	REFERENCE CAPTURE ON IDS			
8.7	10/14/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
8	10/14/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
7	08/01/2005	PRELIMINARY AMENDMENT			
6	08/22/2005	APPLICATION DISPATCHED FROM OIPE			
5	08/22/2005	APPLICATION IS NOW COMPLETE			
4	08/16/2005	CLEARED BY OIPE CSR			
3	08/16/2005	CASE CLASSIFIED BY OIPE			
2	08/15/2005	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	08/01/2005	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/194,580	08/02/2005	Esin Terzioglu	1875.6690001	1092

26111 7590 08/26/2010

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

EXAMINER	
LE, QUE TAN	
ART UNIT	PAPER NUMBER
2878	

MAIL DATE	DELIVERY MODE
08/26/2010	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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STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

In re Application of:
ESIN TERZIOGLU *et al.*
Serial No.: 11/194,580
Filed: August 2, 2005
Attorney Docket No.: 1875.6690001

DECISION ON PETITION
TO REMAIL AND REST PERIOD FOR
REPLY

This is a decision on the petition under 37 CFR 1.182, filed on August 17, 2007, to remail the Office action of January 24, 2007 and restart the statutory period for reply set therein. The petition is being treated as a petition under 37 CFR 1.181 requesting remailing of the Office action in the above-identified application.

The petition is DENIED.

Petitioner (hereinafter "SKGF") asserts that "[o]n January 25, 2007, SKGF opted-out of its participation in the E-Office Action Pilot Program because of problems encountered with the functionality and manageability of the USPTO correspondence received via the pilot program" (Petition, page 3, 1st paragraph.) and "the SKGF docketing department has no record of viewing the Non-Final Rejection that was posted to PAIR on January 24, 2007. Additionally, a search of the file jacket and the docketing records indicates that that no new outgoing correspondence from the USPTO was entered into the corresponding SKGF file, or processed in any way by the SKGF docketing department, during the Pilot Program. SKGF is unable to conclusively determine whether anyone in the firm ever viewed the Non-Final Rejection dated January 24, 2007 during the Pilot Program." (Petition, page 4, 2nd paragraph.)

The USPTO records indicate, in pertinent parts, as follows:

On January 10, 2007 Applicant, SKGF, opted-in to participate in the e-Office Action Pilot Program.

On January 25, 2007 at 5:30 am, SKGF was email-notified that an outgoing correspondence (an e-Office Action Notification) was issued for this and 20 (twenty) other applications associated with SKGF's Customer Number 26111. SKGF acknowledges in the petition having received the notifying email the USPTO about new outgoing correspondences for this application and others. The outgoing correspondence for the instant application was a Non-Final Office action being issued by the examiner with an action date of January 24, 2007.

On January 25, 2007 at 6:08 PM, SKGF opted-out of the e-Office Action Pilot Program.

On January 31, 2007, PALM transaction history indicates that applicant or a person with PAIR access to Customer Number 26111 reviewed the Non-Final Office action and correspondences in 8 of the other 20 applications.

While petitioner asserts that SKGF has no record of viewing or processing the Office action, the search of the file record reveals no entry of the Office action, and SKGF was unable to conclusively determine whether anyone at the SKGF ever viewed the non-final Office action of January 24, 2007, the USPTO records reveal that the various correspondences for the 21 applications, including the instant application, was all accessed by a person(s) with PAIR access to Customer Number 26111. The majority (17) of these 21 correspondences were accessed on January 31, 2007 and February 1, 2007: 9 on 1/31/07 and 8 on 2/1/07.

Neither the statutory period for reply set in the non-final Office action nor the petitioner's obligation to timely reply thereto stopped when petitioner opted out of the Pilot Program after having received the e-Office Action Notification of January 25, 2007.

In view of the fact that petitioner was a participant in the e-Office Action Pilot Program when being notified of the Non-Final Office action (January 25, 2007 at 5:30 am) and in view of the fact that 17 of these correspondences, including the non-final Office action for the instant application, were accessed between January 31, 2007 and February 1, 2007 by a person(s) with PAIR access to petitioner's Customer Number 26111, and petitioner has not indicated whether there is also a lack of entry in any of petitioner's file records of the other 16 correspondences, there is a strong presumption that petitioner has accessed the Non-Final Office action but failed to properly record the action in the application file record. The evidence submitted to support the requested relief is inadequate to overcome the presumption that petitioner accessed the non-final Office action but did not properly process or log the Office Action in petitioner's application file record.

For the above-stated reasons, the petition to remail the Non-Final Office action and to reset the statutory period for reply to run from the date of the re-mail is denied.

Sine the maximum extendable statutory period for reply has expired, the application is now abandoned by operation of law.

Petitioner may wish to consider filing a petition under 37 C.F.R. § 1.137 requesting that the application be revived. See MPEP § 711.03(c) (III).

Questions regarding this decision should be directed to Hien H. Phan, Quality Assurance Specialist at (571) 272-1606

Richard K. Seidel, ~~T.C.~~ Director
Technology Center 2800 - Semiconductors,
Electrical & Optical Systems & Components

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GREGORY W. OSTERLOTH
HOLLAND & HART, LLP
PO BOX 8749
DENVER, CO 80201

MAILED
FEB 28 2011
OFFICE OF PETITIONS

In re Patent No. 7,245,135
Issue Date: July 17, 2007
Application No. 11/194,720
Filed: August 1, 2005
Attorney Docket No.

NOTICE

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

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

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

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-1642.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

Doc Code: PET.PTA.RCAL
Document Description: Request for Recalculation in view of Wyeth

PTO/SB/131 (01-10)
Approved for use through 02/28/2011. OMB 0651-0020
U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH**

Attorney Docket Number: Kodialam 39-6 (MS)-US-NP	Patent Number: 7,660,315
Filing Date (or 371(b) or (f) Date): August 1, 2005	Issue Date: February 9, 2010
First Named Inventor: Muralidharan Kodialam	
Title: Characterizing achievable flow rates in multi-hop mesh networks with orthogonal channels	

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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MENDELSOHN, DRUCKER, & ASSOCIATES, P.C.
1500 JOHN F. KENNEDY BLVD., SUITE 405
PHILADELPHIA, PA 19102

Mail Date: 08/13/2010

Applicant	: Muralidharan S. Kodialam	: DECISION ON REQUEST FOR
Patent Number	: 7660315	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/194,748	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/01/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **796** 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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GREGORY W. OSTERLOTH
HOLLAND & HART, LLP
P.O. BOX 8749
DENVER, CO 80201

MAILED
OCT 05 2011
OFFICE OF PETITIONS

In re Patent No. 7,362,119	:	
Issue Date : April 22, 2008	:	
Application No. 11/194,801	:	NOTICE
Filed: August 1, 2005	:	
Attorney Docket No.: 42543-315983	:	

The above-identified patent has been referred to the Office of Petitions for consideration of a communication filed September 22, 2011 by Dennemeyer & Co LTD. The communication is being treated as a request under 37 CFR 1.28(c), as it includes authorization to charge a maintenance fee deficiency and a letter indicating that patentee is no longer entitled to claim status as a small entity.

The request for acceptance of a fee deficiency submission under 37 CFR 1.28 (c) is **DISMISSED.**

The instant request does not identify the status of the submitter Dennemeyer & Co. LTD, or the relationship of the party signing to Dennemeyer & Co. LTD. Consequently, the request is not signed by a proper party in accordance with 37 CFR 1.33(b) which reads:

> (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.

While the Office will accept maintenance fee payments from third party payers, such acceptance does not extend to prosecution papers, such as papers under § 1.28(c) to correct erroneous fee payments, or to requests that small entity status be removed.

Applicant is given **ONE MONTH** to submit a properly signed **paper requesting a change in small entity status, and a request under § 1.28(c), including a list** of the fees erroneously paid

as a small entity and the total fee deficiency to avoid the return of the present fee deficiency paper **and fee**. This time period is not extendable under 37 CFR 1.136(a).

The file does not indicate a change of address has been submitted, although the address given on the request 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 request; however, the Office will mail all future correspondence solely to the address of record.

Further correspondence with respect to this matter should be delivered through one of the following mediums:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions
By Internet:	EFS-Web[1]

Any questions concerning this matter may be directed to the undersigned at (571) 272-3204.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: DENNEMEYER & CO LTD
REGENT HOUSE HEATON LANE
STOCKPORT CHESHIRE
ENGLAND SK4 1BB

[1] www.uspto.gov/ebc/efs_help.html (for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)

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OFFICE OF PETITIONS

DINSMORE & SHOHL LLP
1900 CHEMED CENTER
255 EAST FIFTH STREET
CINCINNATI OH 45202

In re Application of :
Fred R. BEYETTE et al. : ON PETITION
Application No. 11/194,878 :
Filed: August 1, 2005 :
Atty. Docket No.: 10738-54 :

This is a decision on the petitions filed January 13, 2011 which are being collectively treated as (1) a request under 37 CFR 1.48(a) to amend the inventive entity by the addition of Prashant R. Bhadri, James J. Caffery, Jr., Anindya Majumder, Chad J. Morgan, and Gail Pyne-Geithman, (2) a petition under 37 CFR 1.183, requesting waiver of 37 CFR 1.48(a)(2) which requires a statement from the person being added, and (3) as authorized by 37 CFR 1.48(a)(3), a petition under 37 CFR 1.47, to accept the declaration filed January 13, 2011, which lacks the signature of Anindya Majumder as required by 37 CFR 1.63.

The petition under 37 CFR 1.183 is **GRANTED.**

The petition under 37 CFR 1.48(a) is **GRANTED.**

The petition under 37 CFR 1.47(a) 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 Under 37 CFR §§ 1.47(a), 1.183, and 1.148(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration and a statement of lack of deceptive intent executed by the currently non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Any extensions of time will be governed by 37 CFR 1.136(a).

If the inventive entity is set forth in error in an executed § 1.63 oath or declaration in a nonprovisional application, and such error arose without any deceptive intention on the part of the person named as an inventor in error or on the part of the person who through

error was not named as an inventor, the inventorship of the nonprovisional application may be amended to name only the actual inventor or inventors.

In those instances wherein a request under 37 CFR 1.48(a) and a petition under 37 CFR 1.47 have both been filed in an application, the Office of Petitions may first issue a decision on the request under 37 CFR 1.48(a) so as to determine the appropriate oath or declaration under 37 CFR 1.63 required for the petition under 37 CFR 1.47. In those situations where, as here, an inventor to be added refuses to submit a statement supporting the addition or such party cannot be reached, waiver under 37 CFR 1.183 of the requirement for a statement from that party would be appropriate upon a showing of such refusal or inability to reach the inventor. Every existing assignee of the original named inventors must give its consent to the requested correction. Where there is more than one assignee giving its consent, the extent of the interest (percentage) should be shown. Where no assignment has been executed by the inventors, or if deletion of a refusing inventor is requested, waiver will not be granted absent unequivocal support for the correction sought. Petitions under 37 CFR 1.47 are not applicable to the requirement for statement from each originally named inventor.

37 CFR 1.48(a) requires that an amendment to the named inventive entity be accompanied by:

> (1) A request to correct the inventorship that sets forth the desired inventorship Change;
>
> (2) A statement from each person being added as an inventor and from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part;
>
> (3) An oath or declaration by the actual inventor or inventors as required by § 1.63 or as permitted by §§ 1.42, 1.43 or 1.47;
>
> (4) The processing fee set forth in § 1.17(i); and
>
> (5) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (*see* § 3.73(b)).

On very infrequent occasions, the requirements of 37 CFR 1.48(a) have been waived upon the filing of a request and the fee set forth in § 1.17(f) for a petition under 37 CFR 1.183 (along with the request and fee under 37 CFR 1.48(a)) to permit the filing of a statement by less than all the parties required to submit a statement. *In re Cooper,* 230 USPQ 638, 639 (Dep. Assist. Comm'r Pat. 1986). However, such a waiver will not be considered unless the facts of record unequivocally support the correction sought. *In re Hardee,* 223 USPQ 1122, 1123 (Comm'r Pat. 1984). In essence, petitioner must show that the inability to obtain the statement from Anindya Majumder is, notwithstanding the exercise of reasonable care and diligence, due to circumstances beyond his control.

Petitioner has shown that the inability to obtain a statement of lack of deceptive intent from Anindya Majumder, not withstanding the exercise of reasonable care and diligence, is due to circumstances beyond his control. Accordingly, the requirement for a statement of lack of deceptive intent under 37 CFR 1.48(a)(2) is waived.

Additionally, it has been found that this non-provisional application, as filed, through error and without deceptive intent, improperly set forth the inventorship, and accordingly, this application has been corrected in compliance with 37 CFR 1.48(a). The inventorship of this application has been changed by adding Prashant R. Bhadri, James J. Caffery, Jr., Anindya Majumder, Chad J. Morgan, and Gail Pyne-Geithman as additional inventors.

A corrected filing receipt is enclosed.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or located, notwithstanding diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims, and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee set forth in § 1.17(g); and (4) a statement of the last known address of the non-signing inventor. The petition lacks items (1) and (4) set forth above.

As to item (1), rule 47 applicant must demonstrate with documented evidence that an inventor refuses to join in the application after having been presented with the application papers (specification, claims, drawings, and oath or declaration). There is no indication herein that joint inventor Anindya Majumder was presented with a copy of the complete application papers for this application. From the evidence of record, it only appears that the joint inventors were presented with a copy of the claims. If the joint inventors were not presented with a copy of the application papers for this application, then the joint inventors could not attest that they have "reviewed and understand the application papers" and could not execute the declaration they were requested to sign. Did the joint inventors receive a copy of the application papers? The fact that an application may contain proprietary information does not relieve the rule 47 applicant of the responsibility to present the application papers to the joint inventors if the inventors are willing to receive the papers in order to sign the oath or declaration. Unless petitioner can show that a copy of the application papers was presented to the joint inventors, then petitioner will have to mail a copy of the complete application papers (specification, claims, and drawings) to the last known address of the joint inventors, 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. **The proof of the pertinent events should be made a statement of someone with firsthand knowledge of the events and should include documentary evidence, such as certified mail return receipt, cover letter of instructions, telegram, etc.** *See* MPEP 409.03(d).

Where there is an express or oral refusal, that fact, along with the time and place of the refusal, must be stated in an affidavit or declaration **by the party to whom the refusal**

was made. Where there is a written refusal, a copy of the document(s) evidencing that refusal must be made part of the affidavit or declaration.

When it is concluded by the rule 47 applicant that an omitted inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in an affidavit or declaration. If there is documentary evidence to support facts alleged in the affidavit or declaration, such evidence must be submitted.

Whenever an omitted inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the affidavit or declaration.

As the instant petition is being treated as a petition under 37 CFR 1.183, the petition fee of $400 set forth in 37 CFR 1.17(f) is required. Accordingly, an additional $400 will be charged to petitioners Deposit Account 04-1133.

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 regarding this decision should be directed to Robert DeWitty at (571) 272-8427.

David Bucci
Petitions Examiner
Office of Petitions

Encl.: 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
11/194,878	08/01/2005	1631	1802	10738-54	55	5

CONFIRMATION NO. 2827

CORRECTED FILING RECEIPT

24256
DINSMORE & SHOHL LLP
1900 CHEMED CENTER
255 EAST FIFTH STREET
CINCINNATI, OH 45202

OC00000046491215

Date Mailed: 03/10/2011

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Fred R. Beyette JR., Cincinnati, OH;
Joseph F. Clark, Cincinnati, OH;
Chad J. Morgan, Springfield, MO;
James J. Caffery JR., Cincinnati, OH;
Prashant R. Bhadri, Pica Rivera, CA;
Gail Pyne-Geithman, Cincinnati, OH;
Anindya Majumder, San Diego, CA;

Power of Attorney: None

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/592,502 07/30/2004

Foreign Applications (You may be eligible to benefit from the **Patent Prosecution Highway** program at the USPTO. Please see http://www.uspto.gov for more information.)

If Required, Foreign Filing License Granted: 08/22/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/194,878**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

METHODS FOR ASSESSING A CONDITION BY ANALYZING BLOOD IN CEREBROSPINAL FLUID

Preliminary Class

702

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where

the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

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DINSMORE & SHOHL LLP
1900 CHEMED CENTER
255 EAST FIFTH STREET
CINCINNATI OH 45202

MAILED

APR 28 2011

OFFICE OF PETITIONS

In re Application of :
Fred R. Beyett Jr., et al :
Application No. 11/194,878 : DECISION ON REQUEST FOR REFUND
Filed: August 1, 2005 :
Attorney Docket No. 10738-54 :

This is a decision on the Request For Refund filed April 25, 2011.

The request is **DISMISSED**.

The request is dismissed because USPTO regulations require that papers filed in the application be signed by a registered attorney or agent, by the applicants (inventors) or by the assignee of the entire interest who has taken action in the application in accordance with 37 CFR 3.71. The request is not signed. See 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.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450

DINSMORE & SHOHL LLP
1900 CHEMED CENTER
255 EAST FIFTH STREET
CINCINNATI OH 45202

MAILED

AUG 19 2011

OFFICE OF PETITIONS

In re Application of :
Fred R. BEYETTE et al. : ON PETITION
Application No. 11/194,878 :
Filed: August 1, 2005 :
Atty. Docket No.: 10738-54 :

This is in response to the renewed petition under 37 CFR 1.47(a), filed May 27, 2011.

The petition is **GRANTED**.

A grantable petition under 37 CFR 1.47(a) requires:

> (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims, and drawings);
> (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;
> (3) the petition fee; and
> (4) a statement of the last known address of the non-signing inventor.

Petitioner has shown that the non-signing inventor Anindya Majumder refuses to sign the oath or declaration after having been presented with the application papers. The application and papers have been received and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 47 status.

As provided in 37 CFR 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in that petition. Notice of the filing of this application will be published in the Official Gazette.

Telephone inquires regarding this decision should be directed to Robert DeWitty, Petitions Attorney, Office of Petitions (571-272-8427).

Rajnesh 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

MAILED

AUG 19 2011

OFFICE OF PETITIONS

Anindya Majumder
8460 Capricorn Way, #62
San Diego, CA 92126

In re Application of
Fred R. Beyette, Jr., Joseph F. Clark, Chad J. Morgan, James J. Caffery, Jr., Prashant R. Bhadri, Gail Pyne-Geithman, and Anindya Majumder
Application No. 11/194878
Filed: August 1, 2005
For: METHODS FOR ASSESSING A CONDITION BY ANALYZING BLOOD IN CEREBROSPINAL FLUID

Dear Mr. Majumder:

You are named as joint inventor in the above-identified United States patent application, filed under the provisions of 35 USC 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application, you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Robert DeWitty at (571) 272-8427. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (571) 272-3150 or 1 (800) 972-6382 (outside the Washington, DC area).

for Anthony Knight
Director
Office of Petitions

cc: **DINSMORE & SHOHL LLP**
1900 CHEMED CENTER
255 EAST FIFTH STREET
CINCINNATI OH 45202

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MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

MAILED

FEB 28 2011

OFFICE OF PETITIONS

In re Application of :
LeBlanc :
Application No. 11/194,924 : ON APPLICATION FOR
Filed: August 2, 2005 : PATENT TERM ADJUSTMENT
Atty Docket No. **13328US02** :

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 January 25, 2011, which is properly treated under 37 CFR 1.705(b). Applicants submits that the patent term adjustment to be indicated on the patent is three hundred and thirty-eight (338) days, not two hundred (200) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

It is noted that any period of adjustment will be entered in light of 35 U.S.C. 154(B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY, which provides that:

> Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including –

---

[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

(i) any time consumed by continued examination of the application requested by the applicant under section 132(b);

It is further noted that a Request for Continued Examination (RCE) was filed in this application on December 18, 2008.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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PFIZER INC
Mary J Hosley
150 EAST 42ND STREET
MS: 150/02/E112
NEW YORK NY 10017-5612

MAILED

AUG 16 2010

OFFICE OF PETITIONS

In re Application of :
Rosenthal, et al. :
Application No. 11/194,989 : ON APPLICATION FOR
Filed: August 1, 2005 : PATENT TERM ADJUSTMENT
Attorney Docket No. PC19496A :

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT 37 CFR 1.705(b)" filed March 26, 2010. Applicants submit that the correct patent term adjustment to be indicated on the patent is six hundred and ninety-four (694) days, not three hundred and forty-four (344) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction, in part, on the basis that the Office will take in excess of three years to issue this patent.

Relative to the any assertion that the Office will take in excess of 3 years of the filing date to issue this patent, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

It is noted that any period of adjustment will be entered in light of 35 U.S.C. 154(B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY, which provides that:

> Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including –

---

[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

> (i) any time consumed by continued examination of the application requested by the applicant under section 132(b);

It is further noted that a Request for Continued Examination (RCE) was filed in this application on April 6, 2010.

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 zero (0) days. A copy of the updated PALM screen, showing the corrected determination, is enclosed.

By the instant petition, applicants state that the patent term should be reduced by 368 days. Specifically, applicants' state:

> The USPTO has calculated Applicant Delay as 0 days…However, Applicants believe that Applicant delay is 368 days. That That is, Applicant Delay includes 368 days pursuant to 37 CFR 1.704(c)(3)(i) beginning on the date of abandonment of the application, i.e., June 14, 2008, for failure to reply to an Office Action mailed March 14, 2008, and ending on the date of mailing of the decision reviving the application, i.e., June 16, 2009. Further, under 37 CFR 1.704(c)(4), Applicant delay includes 145 days because there was a failure to file a petition to withdraw the holding of abandonment or to revive an application within two months from the mailing date of a notice of abandonment. Under 37 CFR 1.704(c)(4), adjustment is reduced from December 15, 2008, the day after the date two months from the mailing date of the notice of abandonment (i.e., October 14, 2008…) and ending on May 8, 2009, the date the petition to revive was filed… However, because the delay under 37 CFR 1.704(c)(4)…completely overlaps the delay under 37 CFR 1.704(c)(3)(i)…only the delay under 37 CFR 1.704(c)(3) is subtracted from the total non-overlapping Examination Delay pursuant to 37 CFR 1.704(c). Therefore, the total Applicant delay is 368 days.

Excerpt taken from "APPLICATION FOR PATENT TERM ADJUSTMENT 37 CFR 1.705(b)" filed March 26, 2010, pgs. 5-6.

Applicants' argument has been considered and is well taken. A review of the application file history reveals that the subject application became abandoned on June 15, 2008, after applicants failed to respond to a non-final Office action mailed March 14, 2008. A Notice of Abandonment was mailed October 14, 2008. A petition under 37 CFR 1.137(b) was not filed until May 8, 2009. Pursuant to 37 CFR 1.704(c)(4), a period of reduction to the patent term adjustment of 145 days is warranted because applicants failed to file a petition to revive the application within two months from the mailing date of the notice of abandonment, with said period beginning on the day after the date two months from the mailing of the notice of abandonment, December 15, 2008, and ending on the date the petition to revive the application was filed, May 8, 2009. Further review of the file history reveals that a reduction to the patent term adjustment under 37 CFR 1.704(c)(3) of 367 days is also warranted, with said period beginning on the date of abandonment of the application, June 15, 2008, and ending on the date of mailing of the decision reviving the application, June 16, 2009. It is noted that period of reduction under 37 CFR 1.704(c)(4) entirely overlaps with the period of reduction under 37 CFR 1.704(c)(3). It is, therefore, appropriate to enter only the period of reduction to the patent term adjustment of 367 days.

It is noted that a reduction to the patent term of 36 days is warranted. Further to this point, 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.

A review of the application file record reveals that July 6, 2009, a non-final Office action was mailed to which applicants filed a response on October 6, 2009. On November 11, 2009, applicants filed a supplemental response to the non-final Office action in the form of an Interview Summary. There is no indication that the examiner expressly requested the Interview Summary to be filed. Pursuant to 37 CFR 1.704(c)(8), it is appropriate to enter a reduction to the patent term adjustment of 36 days beginning from the day after the date the initial reply was filed, October 6, 2009, and ending on the date the supplemental reply was filed November 11, 2009. Accordingly, the period of reduction to the patent term adjustment of 36 days for applicant delay pursuant to 37 CFR 1.704(c)(8) will be entered.

In view thereof, the determination of the patent term adjustment at the time of the mailing of the notice of allowance is zero (0) days (344 days of Office delay - 403 days of applicant delay).

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

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 application file is being directed to Technology Center 1600, GAU 1649 for further processing in view of the Request for Continued Examination filed April 6, 2010.

Telephone inquiries regarding this specific matter should be directed to the undersigned (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PALM screen

PALM INTRANET

Day : Wednesday
Date: 8/11/2010
Time: 21:25:28

PTA Calculations for Application: 11/194989			
Application Filing Date:	08/01/2005	PTO Delay (PTO):	344
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	0
Post-Issue Petitions:	0	Total PTA (days):	0
PTO Delay Adjustment:	-403		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
100	08/11/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	403		
99	08/11/2010	ADJUSTMENT OF PTA CALCULATION BY PTO		403	
98	08/11/2010	ADJUSTMENT OF PTA CALCULATION BY PTO		403	
75	01/06/2010	MAIL NOTICE OF ALLOWANCE			
74	12/31/2009	ISSUE REVISION COMPLETED			
73	12/31/2009	DOCUMENT VERIFICATION			
72	12/31/2009	EXAMINER'S AMENDMENT COMMUNICATION			
71	12/31/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
70	12/31/2009	CASE DOCKETED TO EXAMINER IN GAU			
69	12/31/2009	NOTICE OF ALLOWABILITY			
65	11/11/2009	MISCELLANEOUS INCOMING LETTER			
64	10/21/2009	DATE FORWARDED TO EXAMINER			
63	10/06/2009	RESPONSE AFTER NON-FINAL ACTION			
62	10/13/2009	EMAIL NOTIFICATION			
61	10/13/2009	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
60	10/06/2009	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
59	07/06/2009	ELECTRONIC REVIEW			
58	07/06/2009	EMAIL NOTIFICATION			
57	07/06/2009	EMAIL NOTIFICATION			
56	07/06/2009	MAIL NON-FINAL REJECTION			
55	07/01/2009	NON-FINAL REJECTION			
54	07/01/2009	DATE FORWARDED TO EXAMINER			
53	05/08/2009	RESPONSE AFTER NON-FINAL ACTION			
52	07/06/2009	MAIL NOTICE OF RESCINDED ABANDONMENT			
51	07/01/2009	NOTICE OF RESCINDED ABANDONMENT IN TCS			
50	06/18/2009	EMAIL NOTIFICATION			
49	06/16/2009	MAIL-PETITION TO REVIVE APPLICATION - GRANTED			
48	06/15/2009	PETITION TO REVIVE APPLICATION - GRANTED			
47	05/08/2009	PETITION ENTERED			
46	10/14/2008	MAIL ABANDONMENT FOR FAILURE TO RESPOND TO OFFICE ACTION			
45	10/10/2008	ABAND. FOR FAILURE TO RESPOND TO O. A.			
44	03/14/2008	MAIL NON-FINAL REJECTION			
43	03/03/2008	NON-FINAL REJECTION			
42	09/25/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
41	03/02/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
40	11/16/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
39	02/06/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
37	12/21/2007	DATE FORWARDED TO EXAMINER			
36	12/10/2007	RESPONSE TO ELECTION / RESTRICTION FILED			
35	12/10/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
34	11/26/2007	CASE DOCKETED TO EXAMINER IN GAU			
33	09/20/2007	MAIL-PETITION DECISION - DISMISSED			
32	09/10/2007	MAIL RESTRICTION REQUIREMENT	344		-1
31	09/04/2007	REQUIREMENT FOR RESTRICTION / ELECTION			
30	06/27/2007	CORRESPONDENCE ADDRESS CHANGE			
29	06/19/2007	CORRESPONDENCE ADDRESS CHANGE			
27	06/03/2007	CORRESPONDENCE ADDRESS CHANGE			
26	06/04/2007	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
25	03/08/2007	PETITION ENTERED			
23	02/06/2007	REFERENCE CAPTURE ON IDS			
22.7	02/06/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
22	02/06/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			

21	11/16/2006	REFERENCE CAPTURE ON IDS			
20.7	11/16/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
20	11/16/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
18	03/02/2007	REFERENCE CAPTURE ON IDS			
17.7	03/02/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
17	03/02/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
16	09/25/2006	REFERENCE CAPTURE ON IDS			
15.7	09/25/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
15	09/25/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
14	11/18/2005	PRELIMINARY AMENDMENT			
13	01/26/2006	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
12	01/26/2006	CASE DOCKETED TO EXAMINER IN GAU			
11	12/07/2005	APPLICATION DISPATCHED FROM OIPE			
10	12/08/2005	APPLICATION IS NOW COMPLETE			
9	11/18/2005	ADDITIONAL APPLICATION FILING FEES			
8	11/18/2005	A SET OF SYMBOLS AND PROCEDURES, PROVIDED TO THE PTO ON A SET OF COMPUTER LISTINGS, THAT DESCRIBE IN			
7	11/18/2005	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
6	12/01/2005	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
5	09/19/2005	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
3	08/20/2005	CLEARED BY OIPE CSR			
2	08/17/2005	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	08/01/2005	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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NEW YORK NY 10017-5612

MAILED
MAR 14 2011
OFFICE OF PETITIONS

In re Application of :
Rosenthal, et al. : DECISION ON APPLICATION
Application No. 11/194,989 : FOR
Filed: August 1, 2005 : PATENT TERM ADJUSTMENT
Atty Docket No. **PC19496A** :

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)," filed February 7, 2011. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from zero (0) days to at least (96) 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 **zero (0) days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On December 3, 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 zero (0) days. On February 7, 2011, applicants timely submitted the instant application for patent term adjustment[1].

[1] The Office records show applicants had not yet paid the issue fee as of the date the petition was filed.

Applicants dispute the reduction of thirty-six (36) days for filing of an Interview Summary on November 11, 2009, thirty-six days after a reply had been filed. See 37 C.F.R. § 1.704(c)(8)[2]. Applicants contend that they submitted the interview summary at the request of the examiner.

Applicants' contention is well taken. The record supports a conclusion that the interview summary filed November 11, 2009, was expressly requested by the examiner within the meaning of 37 CFR 1.704(c)(8). **Accordingly, the reduction of 36 days is not warranted and is being removed.**

It is noted that entry of a reduction to the patent term adjustment pursuant to 37 CFR 1.704(c)(10)[1] of 239 days is warranted for the filing of an Information Disclosure Statements(IDS) on April 9, 2010, June 8, 2010, and November 8, 2010, after the mailing of the Notice of Allowance on January 6, 2010. The record reflects that a Request for Continued Examination was filed on April 8, 2010, which is the response under 37 CFR 1.704(b). Until a non-final Office action is mailed, any further papers filed after the mailing of a Notice

---

[2] 37 CFR § 1.704(c)(8) states:

> 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[.]

[1] It is noted that 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;

of Allowance, excepting the response under 37 CFR 1.704(b), are subject to a reduction of the patent term adjustment under 37 CFR 1.704(c)(10).

In this instance, petitioner filed IDS on April 9, 2010, June 8, 2010, and November 8, 2010 after the mailing of a notice of allowance. However, a review of the IDS filed on reveals that they did not include a § 1.704(d) statement. Accordingly, the filing of the IDS on April 9, 2010, June 8, 2010, and November 8, 2010, is considered a failure to conduct reasonable efforts to conclude prosecution of application warranting a reduction to the patent term adjustment pursuant to 37 CFR 1.704(c)(10). It is noted that the filing of each IDS is subject to a reduction under 37 CFR 1.704(c)(10). However, the period of reduction of June 8, 2010, through December 3, 2010, and November 8, 2010, through December 3, 2010, totally overlaps the period of reduction of April 9, 2010, though December 3, 2010. **Thus, a period of reduction to the patent adjustment of 239 days is being entered, with said period beginning on April 9, 2010, and ending on December 3, 2010.**

In view thereof, the correct patent term adjustment at the time of the mailing of the notice of allowance is **zero (0) days (463 days of Office delay - 606 (367 + 239) of Applicant delay).**

The Office is in receipt of the $200.00 fee set forth in 37 C.F.R. § 1.18(e). No additional fee is required.

Applicants are reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicants will be notified 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.

Telephone inquiries regarding this matter should be directed to the undersigned (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PALM screen

PTA/PTE Information | Patent Term Adjustment | Patent Term Extension

Application Number*: 11194989 Search | Explanation of PTA Calculation | Explanation of PTE Calculation

PTA Calculations for Application: 11194989

Application Filing Date	08/01/2005	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	463
A Delays	463	PTO Manual Adjustment	-606
B Delays	0	Applicant Delay (APPL)	145
C Delays	0	Total PTA (days)	0

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
131	02/23/2011		P028	Adjustment of PTA Calculation by PTO		203	0
120	12/03/2010	08/06/2010	MN/=.	Mail Notice of Allowance	119		88
119	11/27/2010		IREV	Issue Revision Completed			0
118	11/27/2010		DVER	Document Verification			0
117	11/27/2010		N/=.	Notice of Allowance Data Verification Completed			0
116	11/19/2010		CNTA	Allowability Notice			0
109	11/08/2010		IDSC	Information Disclosure Statement considered			0
106	11/08/2010		RCAP	Reference capture on IDS			0
105	11/08/2010		M844	Information Disclosure Statement (IDS) Filed			0
104	11/08/2010		WIDS	Information Disclosure Statement (IDS) Filed			0
103	08/21/2010		EML_NTR	Email Notification			0
102	08/16/2010		MPTDI	Mail-Petition Decision - Dismissed			0
101	08/13/2010		PTDI	Petition Decision - Dismissed			0
100	08/11/2010		P028	Adjustment of PTA Calculation by PTO			0
100	08/11/2010		P028	Adjustment of PTA Calculation by PTO	403		0
99	08/11/2010		P028	Adjustment of PTA Calculation by PTO			0
99	08/11/2010		P028	Adjustment of PTA Calculation by PTO		403	0
98	08/11/2010		P028	Adjustment of PTA Calculation by PTO			0
98	08/11/2010		P028	Adjustment of PTA Calculation by PTO		403	0
111	06/08/2010		IDSC	Information Disclosure Statement considered			0
110	06/08/2010		WIDS	Information Disclosure Statement (IDS) Filed			0
97	06/08/2010		M844	Information Disclosure Statement (IDS) Filed			0
108	04/09/2010		IDSC	Information Disclosure Statement considered			0
92	04/09/2010		EIDS.	Electronic Information Disclosure Statement			0
91	04/09/2010		WIDS	Information Disclosure Statement (IDS) Filed			0
87	04/08/2010		ABN9	Disposal for a RCE / CPA / R129			0
107	04/06/2010		IDSC	Information Disclosure Statement considered			0
90	04/06/2010		RCAP	Reference capture on IDS			0
89	04/06/2010		M844	Information Disclosure Statement (IDS) Filed			0
88	04/06/2010		RCEX	Request for Continued Examination (RCE)			0
86	04/06/2010		WIDS	Information Disclosure Statement (IDS) Filed			0
85	04/06/2010		BRCE	Workflow - Request for RCE - Begin			0
84	03/26/2010		PET.	Petition Entered			0
82	02/27/2010		FIDC	Finished Initial Data Capture			0
81	01/22/2010		CRFT	Sequence Forwarded to Pubs on Tape			0
80	01/15/2010		EIDC	Export to Initial Data Capture			0
79	01/06/2010		ELC_RVW	Electronic Review			0
78	01/06/2010		EML_NTF	Email Notification			0
77	01/06/2010		EML_NTR	Email Notification			0
76	01/06/2010		MEX.A	Mail Examiner's Amendment			0
75	01/06/2010		MN/=.	Mail Notice of Allowance			0
74	12/31/2009		IREV	Issue Revision Completed			0
73	12/31/2009		DVER	Document Verification			0
72	12/31/2009		EX.A	Examiner's Amendment Communication			0
71	12/31/2009		N/=.	Notice of Allowance Data Verification Completed			0
70	12/31/2009		DOCK	Case Docketed to Examiner in GAU			0
69	12/31/2009		CNTA	Allowability Notice			0
65	11/11/2009		LET.	Miscellaneous Incoming Letter			0
64	10/21/2009		FWDX	Date Forwarded to Examiner			0
62	10/13/2009		EML_NTR	Email Notification			0
61	10/13/2009		MEXIN	Mail Examiner Interview Summary (PTOL - 413)			0
63	10/06/2009		A...	Response after Non-Final Action			0
60	10/06/2009		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
59	07/06/2009		ELC_RVW	Electronic Review			0
58	07/06/2009		EML_NTF	Email Notification			0

57	07/06/2009		EML_NTR	Email Notification			0
56	07/06/2009		MCTNF	Mail Non-Final Rejection			0
52	07/06/2009		MNRAB	Mail Notice of Rescinded Abandonment			0
55	07/01/2009		CTNF	Non-Final Rejection			0
54	07/01/2009		FWDX	Date Forwarded to Examiner			0
51	07/01/2009		NRAB	Notice of Rescinded Abandonment in TCs			0
50	06/18/2009		EML_NTR	Email Notification			0
49	06/16/2009		MPREV	Mail-Petition to Revive Application - Granted			0
48	06/15/2009		PREV	Petition to Revive Application - Granted			0
53	05/08/2009		A...	Response after Non-Final Action			0
47	05/08/2009	12/15/2008	PET.	Petition Entered		145	46
46	10/14/2008		MABN2	Mail Abandonment for Failure to Respond to Office Action			0
45	10/10/2008		ABN2	Aband. for Failure to Respond to O. A.			0
44	03/14/2008		MCTNF	Mail Non-Final Rejection			0
43	03/03/2008		CTNF	Non-Final Rejection			0
37	12/21/2007		FWDX	Date Forwarded to Examiner			0
36	12/10/2007		ELC.	Response to Election / Restriction Filed			0
35	12/10/2007		XT/G	Request for Extension of Time - Granted			0
34	11/26/2007		DOCK	Case Docketed to Examiner in GAU			0
33	09/20/2007		MPTDI	Mail-Petition Decision - Dismissed			0
32	09/10/2007	10/01/2006	MCTRS	Mail Restriction Requirement	344		0.5
31	09/04/2007		CTRS	Restriction/Election Requirement			0
30	06/27/2007		C.AD	Correspondence Address Change			0
29	06/19/2007		C.AD	Correspondence Address Change			0
26	06/04/2007		PA..	Change in Power of Attorney (May Include Associate POA)			0
27	06/03/2007		C.AD	Correspondence Address Change			0
25	03/08/2007		PET.	Petition Entered			0
41	03/02/2007		IDSC	Information Disclosure Statement considered			0
18	03/02/2007		RCAP	Reference capture on IDS			0
17.7	03/02/2007		M844	Information Disclosure Statement (IDS) Filed			0
17	03/02/2007		WIDS	Information Disclosure Statement (IDS) Filed			0
39	02/06/2007		IDSC	Information Disclosure Statement considered			0
23	02/06/2007		RCAP	Reference capture on IDS			0
22.7	02/06/2007		M844	Information Disclosure Statement (IDS) Filed			0
22	02/06/2007		WIDS	Information Disclosure Statement (IDS) Filed			0
40	11/16/2006		IDSC	Information Disclosure Statement considered			0
21	11/16/2006		RCAP	Reference capture on IDS			0
20.7	11/16/2006		M844	Information Disclosure Statement (IDS) Filed			0
20	11/16/2006		WIDS	Information Disclosure Statement (IDS) Filed			0
42	09/25/2006		IDSC	Information Disclosure Statement considered			0
16	09/25/2006		RCAP	Reference capture on IDS			0
15.7	09/25/2006		M844	Information Disclosure Statement (IDS) Filed			0
15	09/25/2006		WIDS	Information Disclosure Statement (IDS) Filed			0
13	01/26/2006		TSSCOMP	IFW TSS Processing by Tech Center Complete			0
12	01/26/2006		DOCK	Case Docketed to Examiner in GAU			0
10	12/08/2005		COMP	Application Is Now Complete			0
11	12/07/2005		OIPE	Application Dispatched from OIPE			0
6	12/01/2005		CRFE	CRF Is Good Technically / Entered into Database			0
14	11/18/2005		A.PE	Preliminary Amendment			0
9	11/18/2005		ADDFLFEE	Additional Application Filing Fees			0
8	11/18/2005		SEQLIST	A set of symbols and procedures, provided to the PTO on a set of computer listings, that describe in			0
7	11/18/2005		OATHDECL	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic			0
5	09/19/2005		INCD	Notice Mailed--Application Incomplete--Filing Date Assigned			0
3	08/20/2005		L194	Cleared by OIPE CSR			0
2	08/17/2005		SCAN	IFW Scan & PACR Auto Security Review			0
1	08/01/2005		IEXX	Initial Exam Team nn			0
0.5	08/01/2005		EFILE	Filing date			0

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MAILED
MAY 23 2011
OFFICE OF PETITIONS

In re Patent No. 7,927,594	:	DECISION ON REQUEST
Rosenthal, et al.	:	FOR
Issue Date: April 19, 2011	:	RECONSIDERATION OF
Application No. 11/194,989	:	PATENT TERM ADJUSTMENT
Filed: August 1, 2005	:	and
Atty Docket No. **PC19496A**	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on May 11, 2011, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by seven hundred and eight (708) 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 **five hundred and eighty-eight (588) days** is **GRANTED to the extent indicated herein.**

By the instant petition, patentees request that the patent term adjustment be changed to 708 days. Specifically, patentees' state:

> The Office entered a reduction to the patent term adjustment pursuant to 37 CFR 1.704(c)(10) cased on Applicants' filing of IDSes on April 9, 2010, June 8, 2010, and November 8, 2010, after the mailing of the Notice of Allowance on January 6, 2010….As such the Office calculated an additional 239 days of applicant delay…
>
> Since applicants has timely filed a Request for Continued Examination (RCE) on April 6, 2010 with the fee set forth in 37 CFR 1.17(e) and a submission after the mailing of the Notice of Allowance on January 6, 2010, the finality of

the Notice of Allowance was withdrawn and prosecution reopened. As such, 37 CFR 1.704(c)(10) is not applicable after the RCE had been filed.

Excerpt from "Request for Reconsideration of Patent Term Adjustment under 37 CFR 1.705(d) and For Reconsideration of Decision on Petition" filed May 11, 2011, pgs.4-5.

Patentees' argument has been considered and is not persuasive. A review of the file history reveals that a Notice of Allowance and Issue Fee Due was mailed January 6, 2010. On April 6, 2010, a Request for Continued Examination and Information Disclosure Statement was filed. This filing on April 6, 2010, was patentees' response pursuant to 37 CFR 1.704(b). Patentees are advised that after the mailing of the Notice of Allowance, patentees were entitled to file a response pursuant to 37 CFR 704(b)—usually an issue fee payment or a Request for Continued Examination. With few exceptions, any paper filed after the 37 CFR 1.704(b) response that is filed prior to the mailing of a non-final Office action or a new Notice of Allowance and Issue Fee Due in response to the Request for Continued Examination warrants a reduction to the patent term adjustment under 37 CFR 1.704(c)(10)[1]. The filing of the Information Disclosure Statements filed April 9, 2010, June 8, 2010, and November 8, 2010, warrant a reduction to the patent term adjustment under 37 CFR 1.704(c)(10) as the statements were filed after the Notice of Allowance and Issue Fee Due was mailed, prior to the mailing of a non-final Office action or Notice of Allowance, and after patentee filed the response under 37 CFR 1.704(b). Further, the

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[1] 37 CFR 1.704(c)(10)provides that:

> (c) Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the periods of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:
>
> (10) Submission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed, in which case the periods of adjustment set forth in § 1.703 shall be reduced by the lesser of:
>
> (i) The number of days, if any, beginning on the date the amendment under § 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or other such paper; or
>
> (ii) Four months…

Information Disclosure Statements did not contain a statement under 37 CFR 1.704(d). Accordingly, it is appropriate to reduce the patent term adjustment by 120 days. It is noted that the petition decision mailed March 14, 2011, indicated that the reduction to the patent term adjustment pursuant to 37 CFR 1.704(c)(10) is 239 days. The petition decision failed to account for the provision in 37 CFR 1.704(c)(10)(ii) that limits the reduction to the patent term to 120 days. Accordingly, the reduction to the patent term adjustment under 37 CFR 1.704(c)(10) is 120 days with said period beginning on the date the first IDS was filed, April 9, 2010, and ending four months (120 days) thereafter.

In view thereof, the revised determination of patent term adjustment at the time of the issuance of the patent is 588 days (463 days of "A" delay + 612 days of "B" delay - 0 days of overlap - 487 days of Applicant delay).

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The 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 **five hundred and eighty-eight (588) days**

The Office acknowledges receipt of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **five hundred and eighty-eight (588)** days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,927,594 B2

DATED : Apr. 19, 2011

INVENTOR(S) : Rosenthal 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 (225) days

Delete the phrase "by 225 days" and insert – by 588 days--

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SAN FRANCISCO CA 94111-3834

MAILED

OCT 22 2010

OFFICE OF PETITIONS

In re Application of :
Deepak Varshneya :
Application No. 11/194,992 : ON PETITION
Filed: August 1, 2005 :
Attorney Docket No: 014801-006400US :

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 April 1, 2008. A shortened statutory period of three months was set for replying to the non-Final Office Action. No response having been timely filed, this application became abandoned July 2, 2008. Accordingly, a Notice of Abandonment was mailed September 2, 2010.

The record reveals that a one month extension of time was filed with the instant petition, however, pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the $130.00 extension of time fee submitted with the petition on September 22, 2010, was subsequent to the maximum period obtainable for reply, this fee is unnecessary and will be credited to counsel's deposit account no. 50-0301.

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[1]Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

This matter is being referred to Technology Center 3728 for appropriate action on the amendment filed December 11, 2008.

Telephone inquiries concerning this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

DAC/FFU

OPAP IAP5 OCT 05 2010 PATENT & TRADEMARK OFFICE

Doc Code: PET.PTA.RCAL
Document Description: Request for Recalculation in view of Wyeth

PTO/SB/131 (02-10)
Approved for use through 08/31/2013. OMB 0651-0020
U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH**

Attorney Docket Number: VKSW 200006US01	
Application Number: 11/195,010	Filing Date (or 371(b) or (f) Date): 08/02/2005
Patent Number: 7,799,202	Issue Date: 09/21/2010
First Named Inventor: Manfred Battefeld	
Title: METHOD FOR DETERMINING PARAMETERS OF A GAS-SELECTIVE ELECTRODE	

PATENTEE HEREBY REQUESTS RECALCULATION OF THE PATENT TERM ADJUSTMENT (PTA) UNDER 35 USC 154(b) INDICATED ON THE ABOVE-IDENTIFIED PATENT. THE PATENTEE'S SOLE BASIS FOR REQUESTING THE RECALCULATION IS THE USPTO'S PRE-*WYETH* INTERPRETATION OF 35 U.S.C. 154(b)(2)(A).

Note: This form is only for requesting a recalculation of PTA for patents issued before March 2, 2010, if the sole basis for requesting the recalculation is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A). See Instruction Sheet on page 2 for more information.

Patentees are reminded that to preserve the right to review in the United States District Court for the District of Columbia of the USPTO's patent term adjustment determination, a patentee must ensure that he or she also takes the steps required under 35 U.S.C. 154(b)(3) and (b)(4) and 37 CFR 1.705 in a timely manner.

**Wyeth v. Kappos*, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).

Signature Terrance Fitzgerald	Date 9-30-10
Name (Print/Typed) Terrance W. Fitzgerald	Registration Number 66263

Note: *Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required in accordance with 37 CFR 1.33 and 11.18. Please see 37 CFR 1.4(d) for the form of the signature. If necessary, submit multiple forms for more than one signature, see below**.

[✓] *Total of 1 forms are submitted.

The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 10 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

FAY SHARPE LLP
1228 Euclid Avenue, 5th Floor
The Halle Building
Cleveland, OH 44115

Mail Date: 10/20/2010

Applicant	: Manfred Battefeld	: DECISION ON REQUEST FOR
Patent Number	: 7799202	: RECALCULATION of PATENT
Issue Date	: 09/21/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/195,010	: OF WYETH
Filed	: 08/02/2005	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A). Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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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KIMBERLY-CLARK WORLDWIDE, INC.
TARA POHLKOTTE
2300 WINCHESTER RD.
NEENAH WI 54956

MAILED

AUG 23 2011

OFFICE OF PETITIONS

In re Application of	:	
Timothy M. Lipinski	:	
Application No. 11/195,030	:	DECISION GRANTING PETITION
Filed: August 2, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 21,173	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed August 19, 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 2, 2011 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 1783 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.*

Doc Code: PET.PTA.RCAL
Document Description: Request for Recalculation in view of Wyeth

PTO/SB/131 (01-10)
Approved for use through 02/28/2011. OMB 0651-0020
U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH**

Attorney Docket Number: TI-32151A	Patent Number: 7,667,511
Filing Date (or 371(b) or (f) Date): 08-02-2005	Issue Date: 02/23/2010
First Named Inventor: Robert B. Staszewski	
Title: EFFICIENT PULSE AMPLITUDE MODULATION TRANSMIT MODULATION	

PATENTEE HEREBY REQUESTS RECALCULATION OF THE PATENT TERM ADJUSTMENT (PTA) UNDER 35 USC 154(b) INDICATED ON THE ABOVE-IDENTIFIED PATENT. THE PATENTEE'S SOLE BASIS FOR REQUESTING THE RECALCULATION IS THE USPTO'S PRE-*WYETH* INTERPRETATION OF 35 U.S.C. 154(b)(2)(A).

Note: This form is only for requesting a recalculation of PTA for patents issued before March 2, 2010, if the sole basis for requesting the recalculation is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A). See Instruction Sheet on page 2 for more information.

Patentees are reminded that to preserve the right to review in the United States District Court for the District of Columbia of the USPTO's patent term adjustment determination, a patentee must ensure that he or she also takes the steps required under 35 U.S.C. 154(b)(3) and (b)(4) and 37 CFR 1.705 in a timely manner.

**Wyeth v. Kappos*, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).

Signature / Wade J. Brady III /	Date August 12, 2010
Name (Print/Typed) Wade J. Brady III	Registration Number 32,080

Note: *Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required in accordance with 37 CFR 1.33 and 11.18. Please see 37 CFR 1.4(d) for the form of the signature. If necessary, submit multiple forms for more than one signature, see below**.

☑ *Total of 1 forms are submitted.

The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, Virginia 22313-1450
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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS, TX 75265

Mail Date: 08/17/2010

Applicant	: Robert B. Staszewski	: DECISION ON REQUEST FOR
Patent Number	: 7667511	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/195,060	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/02/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **41** 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 DEPARTMENT OF COMMERCE
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COMMISSIONER OF PATENTS AND TRADEMARKS
P.O. Box 1450
Alexandria, VA 22313-1450

November 14, 2011

Patent No.: 7,513,015 B2
Applicant : Daniel A. Peluso
Issued : April 7, 2009
For : **GRIPPING HANDLE FOR SUPPORTING A ROTATING TOOL EXTENSION**
Atty Docket No.: **1539-2**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rules 1.323.

Respecting the alleged error in adding the second inventor to patent. The inventorship in patent is printed in accordance with the Declaration submitted at the time of filing the application. Therefore, no correction is in order here under Rule 1.323.

However, your attention is directed to C.F.R. 1.324, wherein a request is being made to change, add or delete inventor(s), after issuance of the patent. If petition is granted, application will be forwarded for correction of Office records to reflect the inventorship as corrected and to the Certificate of Correction Branch for issuance of certificate of correction.

In view of the foregoing, your request in this matter is hereby denied.

A petition under C.F.R. 1.324 should include:

A. the processing fee set forth in 37 CFR 1.20(b) (currently $130);
B. a statement from each person being added as an inventor that the inventorship occurred without any deceptive intention on his or her part, a statement from the current inventors agreeing to the change of inventorship of stating that they have no disagreement in regard to the requested change, and a statement from all assignees of the current inventors agreeing to the change of inventorship in the patent.

Further correspondence concerning this matter should be filed and directed to Supervisory Patent Examiner of Technology Center 2183 at the U.S. Patent and Trademark Office.

Antonio Johnson
For Mary F. Diggs
Decisions & Certificates
of Correction Branch
(571)272-0483

CARTER, DELUCA, FARRELL & SCHMIDT, LLP
445 BROAD HOLLOW ROAD
SUITE 420
MELVILLE NY 11747

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450

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JAN 25 2012

OFFICE OF PETITIONS

John S. Munday, Esquire
PO Box 423
Isanti MN 55040

In re Patent No.: 7,228,012 :
Issue Date: June 5, 2007 : ON PETITION
Application No. 11/195,210 :
Filed: August 1, 2005 :
Atty. Docket No. 150112

This is a decision on the petition under 37 CFR 1.378(c), filed September 27, 2011, with a certificate of mailing dated September 23, 2011, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **DISMISSED**.

Any petition for reconsideration of this decision must be accompanied by the petition fee of $400 as set forth in 37 CFR 1.17(f). The petition for reconsideration must include the lacking item(s) noted below, since, after a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Director.

The patent expired on June 6, 2011 for failure to pay the three and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

37 CFR 1.378(c) requires any petition under 37 CFR 1.378 be accompanied by the maintenance fee and surcharge set forth in 37 CFR 1.29(i)(2). The total fees for the unintentionally delayed payment of the three and one-half year maintenance fee is $2130. The instant petition includes a total payment of $1365, $765 less than the required fees. The authorization to charge additional fee to a deposit account included on the "Fee Transmittal" filed with the instant petition, was limited to fees required under 37 CFR 1.16 and 1.17. The maintenance fee is required under 37 CFR 1.20(e) and the surcharge under 37 CFR 1.20(i)(1). The submission thus lacked a proper authorization to charge the deficiency noted below. As the surcharge payment is insufficient, the petition cannot be granted.

Any renewed petition must include the total fee of $1165, which corresponds to the fee of $400 for the renewed petition and the $765 deficiency noted above.

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.

If this petition is not renewed or if renewed and not granted, the petitioner may request a refund of the maintenance fee and surcharge fees paid. The fee for requesting reconsideration is not refundable.

Further correspondence with respect to this matter should be addressed as follows:

By Mail:
Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand:
U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries relating to this decision should be directed to Robert DeWitty (571-272-8427).

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

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OFFICE OF PETITIONS

John S. Munday, Esquire
PO Box 423
Isanti MN 55040

In re Patent No. 7,149,391 :
Issue Date: December 12, 2006 : ON PETITION
Application No: 11/195,211 :
Filed: August 1, 2005 :

This is a decision on the petition under 37 CFR 1.378(c), filed September 27, 2011, with a certificate of mailing dated September 23, 2011, to accept the unintentionally delayed payment of a maintenance fee for the above-identified application.

The petition is **DISMISSED.**

Any petition for reconsideration of this decision must be accompanied by the petition fee of $400 as set forth in 37 CFR 1.17(f). The petition for reconsideration must include the lacking item(s) noted below, since, after a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Director.

The patent expired on December 13, 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).

37 CFR 1.378 (c) requires any petition under 37 CFR 1.378 be accompanied by the maintenance fee and surcharge set forth in 37 CFR 1.20(i)(2). The total fees for the unintentionally delayed payment of the three and one-half year maintenance fees is $2130. The instant petition includes a total payment of $1365, $765 less than the required fees. The authorization to charge additional fee to a deposit account included on the "Fee Transmittal" filed with the instant petition, was limited to fees required under 37 CFR 1.16 and 1.17. The maintenance fee is required under 37 CFR 1.20(e) and the surcharge under 37 CFR 1.20(i)(1). The submission thus lacked a proper authorization to charge the deficiency noted above. As the surcharge payment is insufficient, the petition cannot be granted.

Any renewed petition must include the total fee of $1165, which corresponds to the fee of $400 for the renewed petition and the $765 deficiency noted above.

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.

If this petition is not renewed or if renewed and not granted, then petitioner may request a refund of the maintenance fee and surcharge fees paid. The fee for requesting reconsideration is not refundable.

Further correspondence with respect to this matter should be addressed as follows:

By Mail:
Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand:
U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries relating to this decision should be directed to Robert DeWitty (571-272-8427).

for Anthony Knight
Director
Office of Petitions

cc: John S. Munday
312 South Third Street
Minneapolis, MN 55415-1863

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LEE & HAYES, PLLC
601 W RIVERSIDE
SUITE 1400
SPOKANE, WA 99201

MAILED

FEB 28 2011

OFFICE OF PETITIONS

In re Application of :
LEVIEN, Royce A. et al. :
Application No. 11/195,346 : DECISION ON PETITION
Filed: August 02, 2005 : TO WITHDRAW
Attorney Docket No. **QQ1-0057US** : 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 **MOOT**.

A review of the file record indicates that the power of attorney to LEE & HAYES, PLLC has been change. 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: **MARGARET ANDERSON**
106 E. 6TH STREET, SUITE 900
AUSTIN TX 78701

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PATENT DEPARTMENT (51851)
KILPATRICK STOCKTON LLP
1001 WEST FOURTH STREET
WINSTON-SALEM NC 27101

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SEP 2 0 2010

OFFICE OF PETITIONS

In re Application :
James F. Kramer et al. :
Application No. 11/195,367 : DECISION ON APPLICATION
Filed: August 1, 2005 : FOR PATENT TERM ADJUSTMENT
Attorney Docket No. IMM-VTI-0013B :

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT DETERMINATION" filed July 26, 2010, 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 nine hundred thirty-seven (937) days to eight hundred sixty-seven (867) days.

The request for correction of the initial determination of patent term adjustment (PTA) is **GRANTED.** The PTA at the time of the mailing of the notice of allowance is 867 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 eight hundred sixty-seven (867) days. A copy of the updated PALM screen, showing the corrected determination, is enclosed.

On April 28, 2010, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 937 days. Applicants direct the office to the Supplemental Information Disclosure Statement (IDS) filed April 19, 2010 and argue that there should have been an additional reduction for applicant delay.

A review of the record reveals that the initial determination of patent term adjustment of 937 days is incorrect.

A response to a non-Final Office Action mailed October 6, 2009 was filed February 8, 2010. Applicants argue that an additional Applicant delay should be accorded for the filing of Supplemental Information Disclosure Statement on April 19, 2010.

37 CFR 1.704(c)(8) provides that:

> the submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed, in which case the period of adjustment set

> forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the initial reply was filed and ending on the date that the supplemental reply or other such paper was filed;

After the filing of a response to the non-Final Office Action on February 8, 2010, Applicant filed a Supplemental Information Disclosure Statement on April 19, 2010. In this instance, the filing of the Supplemental Information Disclosure Statement on April 19, 2010 is considered a failure to engage under 1.704(c)(8). The IDS was not expressly requested by the examiner nor did the IDS include a 1.704(d) statement.

Pursuant to 37 CFR 1.704(c)(8) a period of reduction of 70 days should have been entered for the Supplemental Information Disclosure Statement (IDS) filed April 19, 2010.

The period of reduction pursuant to 37 CFR 1.704(c)(8) for filing the IDS is 70 days, counting the number of days in the period beginning on the day after the initial reply was filed, February 8, 2010 and ending on the date of filing of the last supplemental paper, the IDS filed April 19, 2010. Accordingly, a period of reduction of 70 days is being entered.

In view thereof, the determination of Patent Term Adjustment at the time of the mailing of the notice of allowance is EIGHT HUNDRED SIXTY-SEVEN days (970 days of Office delay reduced by 103 days of applicant delay).

The petition fee in the amount of $200.00, as set forth in 37 CFR 1.18(e), has been charged to the credit card provided. 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*: 11195367 Search Explanation of PTA Calculation Explanation of PTE Calculation

PTA Calculations for Application: 11195367

Application Filing Date	08/01/2005	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	970
A Delays	970	PTO Manual Adjustment	-70
B Delays	0	Applicant Delay (APPL)	33
C Delays	0	Total PTA (days)	867

* - Sorted Column

File Contents History:

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
62	09/19/2010		P070	Adjustment of PTA Calculation by PTO		70	0
52	04/28/2010		MN/=	Mail Notice of Allowance			0
51	04/26/2010		IREV	Issue Revision Completed			0
50	04/26/2010		DVER	Document Verification			0
49	04/26/2010		N/=	Notice of Allowance Data Verification Completed			0
48	04/26/2010		CNTA	Notice of Allowability			0
44	04/19/2010		IDSC	Information Disclosure Statement considered			0
43	04/19/2010		WIDS	Information Disclosure Statement (IDS) Filed			0
42	02/16/2010		FWDX	Date Forwarded to Examiner			0
41	02/08/2010	01/06/2010	A...	Response after Non-Final Action	0	33	39
40	02/08/2010		XT/G	Request for Extension of Time Granted			0
39	10/06/2009		MCTNF	Mail Non-Final Rejection			0
38	10/01/2009		CTNF	Non-Final Rejection			0
35	07/02/2009		FWDX	Date Forwarded to Examiner			0
34	06/29/2009		ELC.	Response to Election / Restriction Filed			0
33	05/28/2009	10/01/2006	MCTRS	Mail Restriction Requirement	970		1
32	05/26/2009		CTRS	Requirement for Restriction / Election			0
31	05/15/2009		PA..	Change in Power of Attorney (May Include Associate POA)			0
30	05/12/2009		CAD	Correspondence Address Change			0
29	09/22/2007		DOCK	Case Docketed to Examiner in GAU			0
28	07/05/2007		TSSCOMP	IFW TSS Processing by Tech Center Complete			0
36	05/14/2007		IDSC	Information Disclosure Statement considered			0
25	05/14/2007		RCAP	Reference capture on IDS			0
24	05/14/2007		M844	Information Disclosure Statement (IDS) Filed			0
23	05/14/2007		WIDS	Information Disclosure Statement (IDS) Filed			0
22	01/24/2007		DOCK	Case Docketed to Examiner in GAU			0
21	03/15/2006		WRDIPE	Application Return from DIPE			0
20	03/15/2006		COMP	Application is Now Complete			0
19	01/31/2006		ADDFLFEE	Additional Application Filing Fees			0
18	01/31/2006		CORRSPEC	Applicant has submitted a new specification to correct Corrected Papers problems			0
14	12/08/2005		ROIPE	Application Return TO DIPE			0
13	12/08/2005		DIPE	Application Dispatched from DIPE			0
12	12/08/2005		COMP	Application is Now Complete			0
6	08/26/2005		INCD	Notice Mailed--Application Incomplete--Filing Date Assigned			0
3	08/20/2005		L194	Cleared by DIPE CSR			0
2	08/17/2005		SCAN	IFW Scan & PACR Auto Security Review			0
17	08/01/2005		SPECIFIC	A document that contains, at least in part, a written description of an invention, and of the manne			0
1	08/01/2005		IEXX	Initial Exam Team nn			0

Export to: Excel

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GAUTHIER
& CONNORS LLP
SUITE 2300
225 FRANKLIN STREET
BOSTON MA 02110

MAILED

JAN 17 2012

OFFICE OF PETITIONS

In re Application of :
Dower :
Application No. 11/195,391 : DECISION
Filed/Deposited: 2 August, 2005 :
Attorney Docket No. 8009 :

This is a decision on the petition filed on 5 October, 2011, pursuant to 37 C.F.R. §1.137(b) for revival of an application abandoned due to unintentional delay.

NOTE:

Petitioner averred the filing of a reply in the form of a continuation application.

However, Petitioner failed to evidence such filing with a copy of the electronic acknowledgement receipt or other such appropriate showing.

Petitioner also failed to identify the application averred to have been filed.

Upon review, the Office concluded that that Petitioner intended to refer to Application No. 13/253,309.

The instant application went abandoned after midnight 7 February, 2009, however, Petitioner's submission is silent as to the reason(s) for such an extended delay.

The petition pursuant to 37 C.F.R. §1.137(b) is **DISMISSED**.

Any request for reconsideration of this decision or any petition in the alternative is to be filed **within two (2) months** from the mail date of this decision. *Note* 37 C.F.R. §1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition

under 37 C.F.R. §1.181 to Withdraw the Holding of Abandonment," and/or "Renewed Petition under 37 C.F.R. §1.137(b)."

This is **not** a final agency action within the meaning of 5 U.S.C. §704.

As to the Allegations
of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee.

Petitioner does not appear to have addressed properly the requirements under the rule.

Any deficiencies must be overcome.

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the non-final Office action mailed on 7 November, 2008, with reply due absent extension of time on or before 7 February, 2009.

The application went abandoned by operation of law after midnight 7 February, 2009.

The Office mailed the Notice of Abandonment of 15 July, 2009.

On 5 October, 2011, Petitioner file a petition with fee petition pursuant to 37 C.F.R. §1.137(b), with a reply in the form of an oath/declaration and drawings, and made the statement of unintentional delay.

On 5 October, 2011, Petitioner filed a petition pursuant to 37 C.F.R. §1.137(b), with fee and averment of a reply in the form of a continuation application, but without any showing as to same, and a statement of unintentional delay but absolutely no showing as to the basis for a delay in excess of thirty-one months—on any renewed petition, Petitioner will wish to detail these matters.

Thus, Petitioner failed to comply with the requirements under the Rule.

Petitioners' attentions always are directed to the guidance in the Commentary at MPEP §711.03(c) as to the showing regarding unintentional delay and a petition pursuant to 37 C.F.R. §1.137(b).

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

STATUTES, REGULATIONS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994). And the regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application.[2],[3]

Moreover, the Office has set forth in the Commentary at MPEP §711.03(c)(I) the showing and timeliness requirements for a proper showing for relief under 37 C.F.R. §1.181 in these matters.

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies

---

[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §11.18, formerly §10.18, to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

[2] See: Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. at 53158-59 (October 10, 1997), 1203 Off. Gaz. Pat. Office at 86-87 (October 21, 1997).

[3] The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition. (Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.) Delays in responding properly raise the question whether delays are unavoidable. Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) And the Petitioner must be diligent in attending to the matter. Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care. (By contrast, 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.))

> and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[4]

As to Allegations of
Unintentional Delay

As indicated above, the requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a proper reply, a proper statement and/or showing of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee.

As discussed above, it does not appear that Petitioner has satisfied the requirements under the rule.

Petitioners' attentions always are directed to the guidance in the Commentary at MPEP §711.03(c)(II) as to a petition pursuant to 37 C.F.R. §1.137.

CONCLUSION

Accordingly, the petition pursuant to 37 C.F.R. §1.137(b) is **dismissed**.

Further correspondence with respect to this matter should be addressed as follows:

By Mail:
Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand:
U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By facsimile:
(571) 273-8300
Attn: Office of Petitions

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[4] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[5]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[5] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

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JAN 12 2012

OFFICE OF PETITIONS

KREMBLAS & FOSTER
7632 SLATE RIDGE BOULEVARD
REYNOLDSBURG, OH 43068

In re Application of :
Jay R. Sayre, et al. :
Application No. 11/195,496 : ON PETITION
Filed: August 1, 2005 :
Attorney Docket No.: 13905 :

This is a decision on the petition, filed November 23, 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 submit corrected drawings on or before October 25, 2011, as required by the Notice of Allowability mailed July 25, 2011. A Notice of Abandonment was mailed on November 9, 2011. In response, on November 23, 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 corrected formal drawings, (2) the petition fee of $930; and (3) an adequate statement of unintentional delay.

The application is being referred to the Office of Data Management to oversee the review of the drawing filed November 23, 2011 and for processing into a patent.

Telephone inquires related to this decision may be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing as a patent should be directed to (571) 272-4200

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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Paper No.

OCCHIUTI ROHLICEK & TSAO, LLP
10 FAWCETT STREET
CAMBRIDGE MA 02138

MAILED

DEC 07 2010

OFFICE OF PETITIONS

In re Application of :
Hsieh et al. :
Application No. 11/195,524 :
Patent No.: 7,632,955 : DECISION ON PETITION
Filed: August 1, 2005 : PURSUANT TO
Issued: December 15, 2009 : 37 C.F.R. § 1.28(c)
Attorney Docket No.: 70001-041001 :
Title: INDOLE COMPOUNDS :

This is a notice regarding your request for acceptance of a fee deficiency submission pursuant to 37 C.F.R. § 1.28, received on October 19, 2010. 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 fee that was erroneously paid as a small entity, when the small entity fee was actually paid, the small entity fee that was actually paid, the deficiency owed amount, and the total deficiency payment owed.

The deficiency payment in the amount of $2,205 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).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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DEC 07 2010

OFFICE OF PETITIONS

OCCHIUTI ROHLICEK & TSAO, LLP
10 FAWCETT STREET
CAMBRIDGE MA 02138

In re Application of :
Hsieh et al. :
Application No. 11/195,531 :
Patent No.: 7,528,165 : DECISION ON PETITION
Filed: August 1, 2005 : PURSUANT TO
Issued: May 5, 2009 : 37 C.F.R. § 1.28(c)
Attorney Docket No.: 70001-042001 :
Title: INDOLE COMPOUNDS :

This is a notice regarding your request for acceptance of a fee deficiency submission pursuant to 37 C.F.R. § 1.28, received on October 19, 2010. 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 fee that was erroneously paid as a small entity, when the small entity fee was actually paid, the small entity fee that was actually paid, the deficiency owed amount, and the total deficiency payment owed.

The deficiency payment in the amount of $755 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).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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In re Patent No. 7131306
Issue Date: November 7,2006
Application No. 11195660
Filed: August 3,2005
Attorney Docket No. 2544-1018

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed January 24,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of January 24,2011 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

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)
7131306	2006-11-07	11195660	2005-08-03	2544-1018

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	◉	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

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	/Benoit Castel/	Date (YYYY-MM-DD)	2011-01-24
Name	Benoit Castel	Registration Number	35041

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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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/195,758	08/03/2005	Michael R. Johnson	273444US96	4188

22850 7590 09/21/2010

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER	
MURRAY, JEFFREY H	

ART UNIT	PAPER NUMBER
1624	

NOTIFICATION DATE	DELIVERY MODE
09/21/2010	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentdocket@oblon.com
oblonpat@oblon.com
jgardner@oblon.com

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SEP 2 1 2010

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA VA 22314

In re Application of:
Johnson et al.
Serial No.: 11/195,758
Filed: August 3, 2005
Attorney Docket No.: **273444US96**

: PETITION DECISION

This is in response to the Petition under 37 CFR § 1.181 filed on August 23, 2010, that the IDS of June 23, 2010 be considered.

BACKGROUND

The IDS of June 23, 2010 was considered by the examiner on July 12, 2010.

DECISION

Accordingly, the petition is **DISMISSED AS MOOT.**

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

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: 0617-1005	Patent Number: 7,660,208
Filing Date (or 371(b) or (f) Date): 03-Aug-2005	Issue Date: 09-Feb-2010
First Named Inventor: LABORELLI, Louis	
Title: ÉQUIPMENT POUR LA LECTURE OPTIQUE DES DISQUES PHONOGRAPHIQUES ANALOGIQUES	

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 /Benoit Castel/	Date August 3, 2010
Name (Print/Typed) Benoit Castel	Registration Number 35041

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)
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U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

Instruction Sheet for:
REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH**

(Not to be Submitted to the USPTO)

This form is only for requesting a recalculation of PTA for patents issued before March 2, 2010, if the sole basis for requesting the recalculation is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A).

This form must be filed within 180 days of the day the patent was granted, with the following exception:

> Patentees who received a decision from the USPTO under the USPTO's pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A) may file a request for reconsideration of that decision if such a request for reconsideration is filed within **two months** of the date of the decision (37 CFR 1.181(f)). If the patentee's sole basis for requesting reconsideration of the decision is the USPTO's pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A), the request for reconsideration need only state that reconsideration is being requested in view of Wyeth (this form may be used for this purpose if it is filed within **two months** of the date of the decision from the USPTO).

Do not use this form if the application has been allowed, but not yet issued as a patent.

1. **For patents issued before March 2, 2010:** A request for reconsideration under 37 CFR 1.705(d) and the fee set forth in 37 CFR 1.18(e) are not required, provided that the patentee's sole basis for requesting recalculation of the PTA in the patent is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A) and this form is filed within 180 days of the day the patent was granted.

2. **For patents issued on or after March 2, 2010 (do not use this form):** Patentees seeking a revised PTA in a patent issued on or after March 2, 2010, must file a request for reconsideration under 37 CFR 1.705(d) that complies with the requirements of 37 CFR 1.705(b)(1) and (b)(2) within two months of the day the patent issued.

For more information, see "Notice Concerning Calculation of the Patent Term Adjustment With Respect to the Overlapping Delay Provision of 35 U.S.C. 154(b)(2)(A)" available on the USPTO Web site at http://www.uspto.gov/patents/law/notices/2010.jsp.

**Wyeth v. Kappos*, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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YOUNG & THOMPSON
209 Madison Street
Suite 500
Alexandria, VA 22314

Mail Date: 09/13/2010

Applicant	: Louis Laborelli	: DECISION ON REQUEST FOR
Patent Number	: 7660208	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/195,784	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/03/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1225** 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

STERNE KESSLER GOLDSTEIN & FOX PLLC
1100 NEW YORK AVE NW
WASHINGTON DC 20005

In re Application :
Mi, et al. :
Application No. 11/195,851 : DECISION ON APPLICATION
Filed: August 3, 2005 : FOR PATENT TERM ADJUSTMENT
Docket No. 2159.0560001/EJH/JCA :

This is a decision on the petition under 37 CFR 1.705(b), filed July 6, 2010. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from three hundred eighty-three (383) days to three hundred fifty-three (353) days.

The application for patent term adjustment is **GRANTED** to the extent indicated herein.

On April 6, 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 was three hundred eighty-three (383) days.

The Office initially determined a patent term adjustment of three hundred eighty-three (383) days based on an adjustment for PTO delay of four hundred sixty-five (465) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 CFR 1.703(a)(1), reduced by thirty-two (32) days of applicant delay pursuant to 37 CFR 1.704(b), and fifty (50) days pursuant to 37 CFR 1.704(c)(8).

Applicants point out additional applicant delay should have been assessed. The Office mailed a non-final Office action on December 22, 2008. Applicants filed a reply on March 19, 2009. However, the Office mailed a Notice of Non-Compliant Amendment on June 25, 2009, to which Applicants filed a compliant Amendment on July 2, 2009. Accordingly, pursuant to 37 CFR 1.704(c)(7), 105 days of Applicant delay should have been assessed.

Applicants also argue that additional PTO delay should have been assessed with respect to the above. After Applicants filed their compliant Amendment on July 2, 2009, the Office mailed a final Office action on October 2, 2009. Applicants assert that PTO delay should have been accorded because the Office did not mail an Office action within four months of Applicants' original March 19, 2009 Amendment. Applicants argument has been considered, but is not persuasive. The Office's four month clock did not start until Applicants filed the compliant Amendment on July 2, 2009.

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-eight (278) days** (465 days of PTO delay, reduced by 187 (32+50+105) days of applicant delay).

Receipt of the $200 fee for filing the instant application for patent term adjustment is acknowledged.

The application is being forwarded to the Office of Data Management for processing into a patent.

Telephone inquiries specific to this matter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.

Anthony Knight
Director
Office of Petitions

Enc: copy of PAIR screen

PTA/PTE Information | Patent Term Adjustment | Patent Term Extension

Application Number*: 11195851 Search Explanation of PTA Calculation Explanation of PTE Calculation

PTA Calculations for Application: 11195851

Application Filing Date	08/03/2005	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	465
A Delays	465	PTO Manual Adjustment	-105
B Delays	0	Applicant Delay (APPL)	82
C Delays	0	Total PTA (days)	278

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
87	10/26/2010		P020	Adjustment of PTA Calculation by PTO		105	0
77	04/05/2010		IREV	Issue Revision Completed			0
76	04/05/2010		DVER	Document Verification			0
75	04/05/2010		N/=.	Notice of Allowance Data Verification Completed			0
74	04/05/2010		DOCK	Case Docketed to Examiner in GAU			0
73	03/25/2010		EX.A	Examiner's Amendment Communication			0
72	03/25/2010		CNTA	Notice of Allowability			0
71	03/24/2010		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
70	03/24/2010		XT/G	Request for Extension of Time - Granted			0
64	03/17/2010		FWDX	Date Forwarded to Examiner			0
63	02/23/2010		AP/A	Amendment/Argument after Notice of Appeal			0
62	12/23/2009		N/AP	Notice of Appeal Filed			0
61	10/02/2009		MCTFR	Mail Final Rejection (PTOL - 326)			0
60	09/30/2009		CTFR	Final Rejection			0
57	07/13/2009		FWDX	Date Forwarded to Examiner			0
56	07/02/2009		A...	Response after Non-Final Action			0
55	06/25/2009		MCTNS	Mail Miscellaneous Communication to Applicant			0
54	06/22/2009		CTMS	Miscellaneous Action with SSP			0
53	04/17/2009		FWDX	Date Forwarded to Examiner			0
58	03/19/2009		IDSC	Information Disclosure Statement considered			0
52	03/19/2009		A...	Response after Non-Final Action			0
51	03/19/2009		RCAP	Reference capture on IDS			0
50	03/19/2009		M844	Information Disclosure Statement (IDS) Filed			0
49	03/19/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
47	12/22/2008		MCTNF	Mail Non-Final Rejection			0
46	12/18/2008		CTNF	Non-Final Rejection			0
48	10/22/2008	09/02/2008	M844	Information Disclosure Statement (IDS) Filed		50	41
45	10/22/2008		IDSC	Information Disclosure Statement considered			0
43	10/22/2008		WIDS	Information Disclosure Statement (IDS) Filed			0
42	10/16/2008		FWDX	Date Forwarded to Examiner			0
41	09/02/2008	08/01/2008	A...	Response after Non-Final Action		32	39
40	09/02/2008		XT/G	Request for Extension of Time - Granted			0
39	05/01/2008		MCTNF	Mail Non-Final Rejection			0
38	04/28/2008		CTNF	Non-Final Rejection			0
30	02/13/2008		FWDX	Date Forwarded to Examiner			0
29	02/11/2008		ELC.	Response to Election / Restriction Filed			0
28	01/11/2008	10/03/2006	MCTRS	Mail Restriction Requirement	465		-1
27	01/07/2008		CTRS	Requirement for Restriction / Election			0
32	08/14/2007		IDSC	Information Disclosure Statement considered			0
25	08/14/2007		M844	Information Disclosure Statement (IDS) Filed			0
22	08/14/2007		WIDS	Information Disclosure Statement (IDS) Filed			0
31	10/11/2006		IDSC	Information Disclosure Statement considered			0
24	10/11/2006		RCAP	Reference capture on IDS			0
23	10/11/2006		M844	Information Disclosure Statement (IDS) Filed			0
21	10/11/2006		WIDS	Information Disclosure Statement (IDS) Filed			0
20	09/29/2006		DOCK	Case Docketed to Examiner in GAU			0
19	09/19/2006		DOCK	Case Docketed to Examiner in GAU			0
17	01/18/2006		TSSCOMP	IFW TSS Processing by Tech Center Complete			0
16	01/18/2006		DOCK	Case Docketed to Examiner in GAU			0
15	12/08/2005		OIPE	Application Dispatched from OIPE			0
14	12/08/2005		COMP	Application Is Now Complete			0
18	11/30/2005		A.PE	Preliminary Amendment			0
13	11/30/2005		FLFEE	Payment of additional filing fee/Preexam			0
9	11/30/2005		OATHDECL	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic			0
8	09/13/2005		L128	Cleared by LAR (LARS)			0
7	08/30/2005		INCD	Notice Mailed--Application Incomplete--Filing Date Assigned			0
5	08/16/2005		L198	Referred to Level 2 (LARS) by OIPE CSR			0
4	08/16/2005		SCAN	IFW Scan & PACR Auto Security Review			0
3	08/16/2005		CRFE	CRF Is Good Technically / Entered into Database			0
11	08/03/2005		CLAIM	Claim Preliminary Amendment			0
2	08/03/2005		CRFL	CRF Disk Has Been Received by Preexam / Group / PCT			0
1	08/03/2005		IEXX	Initial Exam Team nn			0

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LUCAS & MERCANTI, LLP
475 PARK AVENUE SOUTH
15TH FLOOR
NEW YORK NY 10016

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OFFICE OF PETITIONS

In re Application of :
Oskar Beer et al. :
Application No. 11/195,890 :
Filed: August 3, 2005 :
Attorney Docket No. **INA-334** :

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 20, 2011, to revive the above-identified application.

This application became abandoned for failure to timely submit corrected drawings on or before September 27, 2011, as required by the Notice of Allowability, mailed June 27, 2011. Accordingly, the date of abandonment of this application is September 28, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of corrected drawings, (2) the petition fee of $1,860; and (3) a proper statement of unintentional delay.

The petition is hereby **GRANTED**.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at 571-272-4584.

This application is being referred to the Office of Data Management for normal processing.

JoAnne Burke
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11/1/10

TO SPE OF : ART UNIT 2628

SUBJECT : Request for Certificate of Correction for Appl. No. 11/195905 - Pat. 7777763

Please respond to this request for a certificate of correction within 7 days.

Deleted: 838

Deleted: 908732

Deleted: 8055

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)

Magdalene Talley
Certificates of Correction Branch

571 272-0423

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☑ **Approved** — **All** changes apply.

☐ **Approved in Part** — Specify below which changes **do not** apply.

☐ **Denied** — State the reasons for denial below.

Comments: Confirmed Correction

_____

_____

_____

_____

/Kenneth Vanderpuye/ . . 2613

Deleted: /Kenneth Vanderpuye/ . . 2613

SPE

Art Unit

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OFFICE OF PETITIONS

Munck Carter/NSC
P.O. Drawer 800889
Dallas TX 75380

In re Patent No. 7,754,558	:	
Mitra, et al.	:	DECISION DISMISSING
Application No. 11/195,937	:	REQUEST FOR
Issue Date: July 13, 2010	:	RECONSIDERATION OF
Filed: August 3, 2005	:	PATENT TERM ADJUSTMENT
Attorney Docket No.	:	UNDER 37 CFR 1.705
P06339	:	

This is in response to the "Request for Reconsideration of Patent Term Adjustment under 37 CFR 1.705(d)" filed July 21, 2010, Patentees requests that the determination of patent term adjustment be corrected from one thousand, eight-four (1,084) days to at least one thousand, one hundred and fifty-five (1,155) days.

The request for reconsideration of patent term adjustment is **DISMISSED** with respect to making any change in the patent term adjustment determination under 35 U.S.C. § 154(b) of 1,084 days.

No consideration will be given to patentees' assertion that 71 days of reduction to the patent term entered pursuant to 37 CFR 1.704(c)(7) should be removed. Further to this point, PALM records indicate that the issue fee payment was received in the Office on June 4, 2010. No application for patent term adjustment under 37 CFR 1.705(b) preceded the payment of the issue fee. The period for filing an application for patent term adjustment requesting reconsideration of the initial determination of patent term adjustment at the time of mailing of the notice of allowance ended June 4, 2010. Accordingly, relative to the 71 days of reduction to the patent term adjustment entered prior to the issuance of the patent, it is appropriate to dismiss this petition as untimely filed under § 1.705(b).

Further, consideration under § 1.705(d) is not appropriate. As stated in MPEP 2730, § 1.703(d) provides that:

> If there is a revision to the patent term adjustment indicated in the notice of allowance, the patent will indicate the revised patent term adjustment. If the patent indicates or should have indicated a revised patent term adjustment, any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued and must comply with the requirements of paragraphs (b)(1) and (b)(2) of this section. Any request for reconsideration under this section that raises issues that were raised, or could have been raised, in an application for patent term adjustment under paragraph (b) of this section shall be dismissed as untimely as to those issues.

The issue of the 71 day reduction to the patent term adjustment raised herein should have been timely raised on application for patent term adjustment under § 1.705(b). Thus, the 71 days of adjustment to the patent term adjustment will not be entered.

Patentees presented no argument under 37 CFR 1.705(d) relative to the adjustments and/or reductions which were entered, or should have been entered, pursuant to 37 CFR 1.704(c)(10) or 37 CFR 1.702(b)

In view thereof, the Office affirms that the revised determination of patent term adjustment at the time of the issuance of the patent is one thousand, eighty-four (1,084) days.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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.
11/195,968	08/03/2005	Kirsten Bojsen	674509-2064.1	5462

99562 7590 10/15/2010

Vedder Price P.C.
1633 Broadway, 47th Floor
new york, NY 10019

EXAMINER	
BADR, HAMID R	

ART UNIT	PAPER NUMBER
1781	

MAIL DATE	DELIVERY MODE
10/15/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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wk

Mailed: OCT 15 2010

In re application of :
Bojsen et al. : DECISION ON
Serial No. 11/195,968 : PETITION
Filed: August 3, 2005 :
For: Method Of Improving Dough and Bread Quality

This is a decision on the PETITION FILED UNDER 37 CFR 1.181 on August 10, 2010 to withdraw the Finality of the Office Action mailed March 1, 2010. An Advisory was mailed on August 3, 2010. The Advisory Action indicated that Applicants' Amendment filed July 6, 2010 was entered, overcame the rejections of record, but did not put the application in condition for allowance because new grounds of rejections will be forthcoming. Applicants assert that the Advisory Action is improper because either the application is in condition for allowance because the rejections of record are over come or prosecution on the merits is re-opened with finality withdrawn and new grounds of rejections stated in an office action so that Applicants can respond on the merits.

DECISION

The petition is **GRANTED**.

The finality of the March 1, 2010 is withdrawn. The Examiner is directed to issue an office action specifying the new grounds of rejection in view of Applicants' entered Amendment that was filed July 6, 2010.

/SHARON GIBSON/
Director, Technology Center 1700
Chemical and Materials Engineering

Thomas J. Kowalski
FROMMER LAWRENCE & HAUG
745 FIFTH AVENUE- 10TH FL.
NEW YORK NY 10151

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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.
11/196,067	08/02/2005	Rene Gantier	3800073.00016 / 923B	6164

77202 7590 01/25/2011

K&L Gates LLP
3580 Carmel Mountain Road
Suite 200
San Diego, CA 92130

EXAMINER	
NEGIN, RUSSELL SCOTT	
ART UNIT	**PAPER NUMBER**
1631	
MAIL DATE	**DELIVERY MODE**
01/25/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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JAN 2 5 2011

K&L Gates LLP
3580 Carmel Mountain Road
Suite 200
San Diego CA 92130

In re Application of:
Gantier et al.
Serial No.: 11/196,067
Filed: August 2, 2005
Attorney Docket No: **3800073.00016 / 923B**

PETITION DECISION

This is in response to the petition filed on January 12, 2011 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 September 17, 2007; January 4, 2008; June 10, 2008; March 2, 2010; and November 24, 2010 in connection with the above-referenced application and consideration by the Examiner of the documents and information contained therein.

Applicants argue the "Information Disclosure Statements were submitted in connection with the above-captioned application on September 17, 2007; January 4, 2008; June 10, 2008; March 2, 2010; and November 24, 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. A copy of the misclassified Information Disclosure Statements filed on September 17, 2007; January 4, 2008; June 10, 2008; March 2, 2010; and November 24, 2010 is attached.

The submitted Information Disclosure Statement 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" (September 17, 2007, "Transmittal Letter" of 7 pages; January 4, 2008, "Transmittal Letter" of 4 pages; June 10, 2008, "Transmittal Letter" of 6 pages; March 2, 2010, "Transmittal Letter" of 2 pages; and November 24, 2010, "Transmittal Letter" of 2 pages). Consequently the information contained therein may not be 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 September 17, 2007; January 4, 2008; June 10, 2008; March 2, 2010; and November 24, 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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NIXON PEABODY, LLP
401 9TH STREET, NW
SUITE 900
WASHINGTON DC 20004-2128

MAILED

AUG 2 6 2010

OFFICE OF PETITIONS

In re Application of	:	
Satoshi Murakami et al	:	
Application No. 11/196,251	:	DECISION GRANTING PETITION
Filed: August 4, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 740756-2867	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed August 24, 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 2815 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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NIXON PEABODY, LLP
401 9TH STREET, NW
SUITE 900
WASHINGTON DC 20004-2128

MAILED

JAN 20 2011

OFFICE OF PETITIONS

In re Application of
Satoshi Murakami et al
Application No. 11/196,251
Filed: August 4, 2005
Attorney Docket No. 740756-2867

: DECISION GRANTING PETITION
: UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition under 37 CFR 1.313(c)(2), filed January 18, 2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on December 14, 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 2815 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12/6/11

TO SPE OF : ART UNIT: 2453

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/196,363 Patent No. 8,010,810

CofC mailroom date 12/1/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Ernest C. White, LIE

Certificates of Correction Branch

703-756-1814 _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ **Approved**	**All** changes apply.
☐ **Approved In Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: Claim 18 recites "the tangible handheld electronic device" of claim 13, but claim 13 recites a "tangible computer program product." It is clear that claim 18 should instead recite "the tangible computer program product."

/Krista Zele/ — **SPE**

2453 — **Art Unit**

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OCT 27 2010

OFFICE OF PETITIONS

SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

In re Patent No. 7,605,143	:	
Issued: October 20, 2009	:	
Application No. 11/196,529	:	NOTICE
Filed: August 2, 2005	:	
Attorney Docket No.: 1036.053US1	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Paper No.

MAILED

JAN 12 2012

OFFICE OF PETITIONS

Timothy B. Smith
185 South State Street, Suite 1300
Salt Lake City UT 84111

In re Application of :
Gatrell :
Application No. 11/196,668 : DECISION ON PETITION
Filed: August 3, 2005 : PURSUANT TO
Attorney Docket No. 105910-2 : 37 C.F.R. § 1.137(B)
Title: RETROFITTABLE REINFORCED :
DOOR JAMB PLATE :

This is a decision on the petition pursuant to 37 C.F.R. § 1.137(b), filed December 22, 2011, to revive the above-identified application.

This petition pursuant to 37 C.F.R. § 1.137(b) is **GRANTED**.

A Request for Continued Examination was received on August 7, 2009. The above-identified application became abandoned for failure to reply in a timely manner to a Notice of Non-Compliant Amendment (notice), mailed April 19, 2010, which set an extendable one-month period for response. 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 May 20, 2010. A notice of abandonment was mailed on December 22, 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 the petition fee, an amendment, and the proper statement of unintentional delay. As such, the first three requirements of Rule 1.137(b) have been met. The fourth requirement of Rule 1.137(b) is not applicable, as a terminal disclaimer is not required.[1]

The Technology Center will be notified of this decision, and jurisdiction over this application is transferred to the Technology Center, so that the application may receive further processing. The Technology Center's support staff will notify the Examiner of this decision, so that the amendment that was received on December 22, 2011 can be processed in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the revival has been acknowledged by the Technology Center in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status.**

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225.[2] All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski
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 any of Petitioner's further action(s).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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David W. Highet, VP & Chief IP Counsel
Becton, Dickinson and Company
1 Becton Drive
MC 110
Franklin Lakes NJ 07417-1880

MAILED

AUG 16 2010

OFFICE OF PETITIONS

In re Application of :
Lim et al. : DECISION ON APPLICATION
Application No. 11/196,699 : FOR PATENT TERM ADJUSTMENT
Filed: August 3, 2005 :
Docket No. P-5176C1P1 :

This is a decision on the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(b), filed April 28, 2010. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from 26 days to 14 days.

The application for patent term adjustment is **GRANTED to the extent indicated herein**.

The Office has updated the PALM screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the notice of allowance is **zero (0)** days. A copy of the updated PALM screen, showing the correct determination, is enclosed.

On March 26, 2010, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 26 days. On April 28, 2010, applicants timely submitted the instant application for patent term adjustment.[1]

[1] Office finance records indicate that the issue fee payment was received on May 17, 2010.

Applicants assert there should be no adjustment entered in connection with the Notice of Allowance mailed on August 7, 2009. Applicants assert there was no Office delay, within the meaning of 35 U.S.C. 154(b)(1)(A)(ii), in taking action in response to the date on which an appeal was taken in this application.

35 U.S.C. 154(b)(1)(A) provides, in pertinent part, that:

> Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the Patent and Trademark Office to –
>
> ...
>
> (ii) respond to a reply under section 132, or to an appeal taken under section 134, within 4 months after the date on which the reply was filed or the appeal was taken;

37 CFR 1.702(a) provides, in pertinent part 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:

> (2) Respond to a reply under 35 U.S.C. 132 or to an appeal taken under 35 U.S.C. 134 not later than four months after the date on which the reply was filed or the appeal was taken;

However, as provided in 37 CFR 1.703(a), this period is calculated as:

> (4) The number of days, if any, in the period beginning on the day after the date that is four months after the date an appeal brief in compliance with § 41.37 of this title was filed and ending on the date of mailing of any of an examiner's answer under § 41.39 of this title, an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first;

Furthermore, as stated in the Final Rule[2],

> Section 1.703(a)(4) also pertains to the provisions of 35 U.S.C. 154(b)(1)(A)(ii). Section 1.703(a)(4) specifies that the period is the number of days, if any, beginning on the day after the date that is four months after the date an appeal brief in compliance with 1.192 was filed and ending on the mailing date of any of an examiner's answer under 1.193, an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first. As discussed below, the phrase "the date on which" an "appeal was taken" in 35 U.S.C. 154(b)(1)(A)(ii) means the date on which an appeal brief (and not a notice of appeal) was filed. The phrase "appeal brief in compliance with 1.192" requires that:(1) the appeal brief fee (1.17(c)) be paid (1.192(a)); and (2) the appeal brief complies with 1.192(c)(1) through (c)(9). (*See also* the Response to Comment 38).

In this instance, an appeal brief *in compliance with 1.192* was filed on May 13, 2009 and the Office took action in response on August 7, 2009 by mailing a notice of allowance. As this was within four months of the filing of the compliant appeal brief there was no Office delay within the meaning of the statute or the rules.

Accordingly, the period of adjustment of 12 days associated with the mailing of the August 7, 2009 Notice of Allowance is not warranted and is being removed.

A review of patent term adjustment calculations for this application reveals two additional periods of reduction based on 37 CFR 1.704(c)(8).

Applicants filed an Information Disclosure Statement (IDS) on May 20, 2008, after a reply had been filed on May 12, 2008. In addition, applicants filed an IDS on October 27, 2009, after a reply had been filed on September 8, 2009.

Pursuant to 37 CFR 1.704(c)(8), the submission of a supplemental reply or other paper, other than a supplemental

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[2] See *Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term; Final Rule*, 65 Fed. Reg. 56366 (September 18, 2000).

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. It is undisputed that after filing a response on May 12, 208, applicants filed an IDS on May 20, 2008. It is Undisputed that after filing a response on September 8, 2009, applicants filed an IDS on October 27, 2009. The record does not support a conclusion that either IDS was expressly requested by the examiner. Further, a review of both IDSs reveals that they did not include the proper § 1.704(d) statement.[3]

Thus, applicants failed to engage in reasonable efforts to conclude prosecution of the application. Accordingly, two period of reduction should be entered.

The period of adjustment should have been reduced by 8 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 13, 2008, and ending on the date that the IDS was filed, May 20, 2008. Accordingly, a period of reduction of 8 days will be entered.

The period of adjustment should have been reduced by 49 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, September 9, 2009, and ending on the date that the IDS was filed, October 27, 2009. Accordingly, a period of reduction of 49 days will be entered.

---

[3] Applicants are reminded that 37 CFR 1.704(d) was revised, effective May 24, 2004, as follows:

> A paper containing only an information disclosure statement in compliance with §§ 1.97 and 1.98 will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under paragraphs (c)(6), (c)(8), (c)(9), or (c)(10) of this section if it is accompanied by a statement that each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in § 1.56(c) more than thirty days prior to the filing of the information disclosure statement. This thirty-day period is not extendable.

In view thereof, the determination of patent term adjustment at the time of mailing of the notice of allowance is zero (**0**) **days** (239 days of Office delay - 282 days of applicant delay).

The Office acknowledges receipt of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

There is no indication that the petition is signed by a registered patent attorney or patent agent of record. However, in accordance with 37 CFR 1.34, the signature of Ms. Fugit appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that she is authorized to represent the particular party in whose behalf he acts. If, Ms. Fugit desires to receive correspondence regarding this file, the appropriate power of attorney documents must be submitted. A courtesy copy of this decision is being mailed to Ms. Fugit, the petitioner herein. However, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

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 Shirene Willis Brantley, Senior Petitions Attorney, at (571) 272-3230.

Anthony Knight
Director
Office of Petitions

Enclosure: Copy of updated PALM Screen

CC: DONNA R. FUGIT
DIEL SERVILLA LLC
77 BRANT AVENUE, SUITE 210
CLARK, NJ 07066

Day : Wednesday

PALM INTRANET

Date: 7/21/2010
Time: 11:38:30

PTA Calculations for Application: 11/196699			
Application Filing Date:	08/03/2005	PTO Delay (PTO):	251
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	225
Post-Issue Petitions:	0	Total PTA (days):	0
PTO Delay Adjustment:	-69		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
115	07/21/2010	ADJUSTMENT OF PTA CALCULATION BY PTO		69	
103	03/26/2010	MAIL NOTICE OF ALLOWANCE			
102	03/26/2010	ISSUE REVISION COMPLETED			
101	03/26/2010	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
100	03/26/2010	DOCUMENT VERIFICATION			
99	03/22/2010	NOTICE OF ALLOWABILITY			
98	02/18/2010	REFERENCE CAPTURE ON IDS			
97	02/18/2010	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	94
96	02/18/2010	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
95	03/10/2010	DATE FORWARDED TO EXAMINER			
94	02/18/2010	RESPONSE AFTER NON-FINAL ACTION			
93	02/18/2010	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
92	10/27/2009	REFERENCE CAPTURE ON IDS			
91	10/27/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
90	11/18/2009	MAIL NON-FINAL REJECTION			
89	11/16/2009	NON-FINAL REJECTION			
88	10/27/2009	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
87	09/08/2009	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
86	10/28/2009	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
85	10/27/2009	INFORMATION DISCLOSURE STATEMENT (IDS)			

		FILED			
84	10/20/2009	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
83	09/08/2009	REFERENCE CAPTURE ON IDS			
82	09/08/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
81	10/16/2009	DATE FORWARDED TO EXAMINER			
80	09/08/2009	REQUEST FOR CONTINUED EXAMINATION (RCE)			
79	10/16/2009	DISPOSAL FOR A RCE / CPA / R129			
78	09/08/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
77	09/08/2009	WORKFLOW - REQUEST FOR RCE - BEGIN			
76	09/01/2009	FINISHED INITIAL DATA CAPTURE			
73	08/10/2009	EXPORT TO INITIAL DATA CAPTURE			
72	08/07/2009	MAIL NOTICE OF ALLOWANCE	12		60
71	08/07/2009	ISSUE REVISION COMPLETED			
70	08/07/2009	DOCUMENT VERIFICATION			
69	08/07/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
68	08/07/2009	CASE DOCKETED TO EXAMINER IN GAU			
67	08/03/2009	NOTICE OF ALLOWABILITY			
66	06/19/2009	APPEAL BRIEF REVIEW COMPLETE			
65	06/19/2009	DATE FORWARDED TO EXAMINER			
64	05/13/2009	APPEAL BRIEF FILED			
63	05/01/2009	NOTICE -- DEFECTIVE APPEAL BRIEF			
62	04/29/2009	APPEAL BRIEF REVIEW COMPLETE			
61	04/29/2009	DATE FORWARDED TO EXAMINER			
60.1	03/26/2009	DEFECTIVE / INCOMPLETE APPEAL BRIEF FILED			
60	03/26/2009	APPEAL BRIEF FILED			
59	02/18/2009	NOTICE OF APPEAL FILED			
58	01/12/2009	MAIL FINAL REJECTION (PTOL - 326)			
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53	06/25/2008	MAIL NON-FINAL REJECTION			

52	06/23/2008	NON-FINAL REJECTION			
51	05/20/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
50	05/12/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
48	05/20/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
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33	03/27/2008	AMENDMENT AFTER FINAL REJECTION			
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31	01/16/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
30	01/16/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
29	12/27/2007	MAIL FINAL REJECTION (PTOL - 326)			
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12	02/16/2006	APPLICATION RETURN FROM OIPE			
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10	02/16/2006	APPLICATION RETURN TO OIPE			
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7	02/06/2006	ADDITIONAL APPLICATION FILING FEES		62	5
6	02/06/2006	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
5	09/06/2005	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
3	08/22/2005	CLEARED BY OIPE CSR			
2	08/18/2005	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	08/03/2005	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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OFFICE OF PETITIONS

SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

In re Patent No. 7,576,069	:	
Issued: August 18, 2009	:	
Application No. 11/196,798	:	NOTICE
Filed: August 2, 2005	:	
Attorney Docket No.: 1036.054US1	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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GREGORY J. KOERNER
REDWOOD PATENT LAW
1291 EAST HILLSDALE BOULEVARD
SUITE 205
FOSTER CITY CA 94404

MAILED

FEB 23 2011

OFFICE OF PETITIONS

In re Application of	:	
Edwards et al.	:	
Application No. 11/196,863	:	DECISION ON PETITION
Filed: August 4, 2005	:	
Attorney Docket No. 50N3483.01/1871	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 18, 2011, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before December 17, 2010, as required by the Notice of Allowance and Fee(s) Due mailed September 17, 2010. Accordingly, the date of abandonment of this application is December 18, 2010. A Notice of Abandonment was mailed January 3, 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 (previously submitted December 20, 2010), (2) the petition fee of $1,620.00; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

This application is being referred to the Office of Data Management for processing into a patent.

Joan Olszewski
Petitions Examiner
Office of Petitions

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MAY 10 2011

OFFICE OF PETITIONS

PHARMACIA & UPJOHN
7000 Portage Road
KZO-300-104
KALAMAZOO MI 49001

In re Patent No. 7,897,151 :
Morsey et al. : DECISION ON REQUEST FOR
Issue Date: March 1, 2011 : RECONSIDERATION OF
Application No. 11/196,897 : PATENT TERM ADJUSTMENT
Filed: August 4, 2005 : AND NOTICE OF INTENT
Attorney Docket No. PC10761C : TO ISSUE CERTIFICATE OF
Title: ANTI-IGE VACCINES : CORRECTION

This is a decision on the petition filed on March 29, 2011, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by two hundred sixty-two (262) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by two hundred sixty-two (262) days is **GRANTED to the extent indicated herein.**

Submission of the patent term adjustment application fee is a prerequisite prior to treatment on the merits of any application submitted pursuant to 37 CFR 1.705. As such pursuant to petitioner's request deposit account no. 16-1445 will be charged the $200.00 fee.

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period begins on August 5, 2008 and ends on March 11, 2009, the day before the RCE was filed, and is 219 days. See 35 U.S.C.

154(b)(1)(B)(i). As such, the patent term adjustment is 262, not 263 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 **two hundred sixty-two (262)** days.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required. The fee set forth in 37 CFR 1.18(e) is required and will not be refunded.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3215.

Charlema Grant
Petition Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,897,151 B2

DATED : **March 1, 2011** **DRAFT**

INVENTOR(S) : Morsey 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 263 days

Delete the phrase "by 263 days" and insert – by 262 days--

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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

CANON U.S.A. INC. INTELLECTUAL PROPERTY DIVISION
15975 ALTON PARKWAY
IRVINE CA 92618-3731

In re Application of :
HIROSE, HIDEKI et al. :
Application No. 11/196,938 :
Filed: August 04, 2005 :
Attorney Docket No. 10005228US01 :

DECISION ON REQUEST TO PARTICIPATE IN PATENT PROSECUTION HIGHWAY PROGRAM AND PETITION TO MAKE SPECIAL UNDER 37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) program and the petition under 37 CFR 1.102(d), filed July 22, 2010, to make the above-identified application special.

The request and petition are **DISMISSED AS MOOT**.

A grantable request to participate in the PPH program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the JPO application(s) along with an English translation thereof and a statement that the English translation is accurate;
(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s);
(4) Examination of the U.S. application has not begun;
(5) Applicant must submit a copy of all the office actions from each of the JPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate; and
(6) Applicant must submit an IDS listing the documents cited by the JPO examiner in the JPO office action along with copies of documents except U.S. patents or U.S. patent application publications.

The request to participate in the PPH program and petition are dismissed as moot as the examination of the above-identified application has begun. An Office Action was mailed on August 16, 2010.

Telephone inquiries concerning this decision should be directed to Michael Horabik at 571-272-3068.

All other inquiries concerning the examination or status of the application should be directed to Patent Application Information Retrieval (PAIR) system.

The application is being forwarded to the examiner for action on the merits commensurate with this decision.

/Michael Horabik/

Michael Horabik
Quality Assurance Specialist
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Decision Date : December 15, 2011

In re Application of :

Steven Lester

DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 11197010

Filed : 04-Aug-2005

Attorney Docket No : 10050260-1

This is an electronic decision on the petition under 37 CFR 1.313(c)(2), filed December 15, 201,1to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid in this application cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.

Telephone inquiries concerning this decision should be directed to the Patent Electronic Business Center (EBC) at 866-217-9197.

This application file is being referred to Technology Center AU 2818 for processing of the request for continuing examination under 37 CFR 1.114 .

Office of Petitions

Doc Code: PET.AUTO Document Description: Petition automatically granted by EFS-Web	PTO/SB/140 U.S. Patent and Trademark Office Department of Commerce

Electronic Petition Request	**PETITION TO WITHDRAW AN APPLICATION FROM ISSUE AFTER PAYMENT OF THE ISSUE FEE UNDER 37 CFR 1.313(c)**
Application Number	11197010
Filing Date	04-Aug-2005
First Named Inventor	Steven Lester
Art Unit	2818
Examiner Name	EARL TAYLOR
Attorney Docket Number	10050260-1
Title	EDGE-EMITTING LED LIGHT SOURCE

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	/Scott Weitzel/
Name	Scott Weitzel
Registration Number	54534

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OFFICE OF PETITIONS

KILPATRICK TOWNSEND & STOCKTON LLP - 41305
CHARLES CALKINS
1001 WEST FOURTH STREET
WINSTON-SALEM NC 27101

In re Application of :
Mjalli, et al. :
Application No. 11/197,038 :
Filed: August 3, 2005 :
Atty Docket No. **TTP 2004-04-US-A** :
:

DECISION ON APPLICATION FOR PATENT TERM ADJUSTMENT

This is a decision on the "PETITION REGARDING PATENT TERM ADJUSTMENT (PTA) INDICATED IN NOTICE OF ALLOWANCE", filed December 22, 2010, which is being treated 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 one hundred and fifty-five (155) days to seven hundred and sixteen (716) days. Applicants also set forth some argument as to the adjustment to the patent term on the basis that the Office will take in excess of three years to issue this patent, which is properly treated under 37 CFR 1.705(b).

Relative to the any assertion that the Office will take in excess of 3 years of the filing date to issue this patent, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

It is noted that any period of adjustment will be entered in light of 35 U.S.C. 154(B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY, which provides that:

> Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including —

---

[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

> (i) any time consumed by continued examination of the application requested by the applicant under section 132(b);

It is further noted that a Request for Continued Examination (RCE) was filed in this application on June 15, 2010.

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 seventy-five (75) days. A copy of the updated PALM screen, showing the corrected determination, is enclosed.

On December 20, 2010, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment is 155 days. On December 22, 2010, applicants timely submitted the instant application for patent term adjustment.[2]

Applicants point out and a review of the application history reveals that Information Disclosure Statements (IDS) were filed on July 2, 2010, July 23, 2010, and September 3, 2010, the last being filed 80 days after a response to a final rejection was filed on June 15, 2010. 37 CFR 1.704(c)(8) provides that:

> (c) Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:
>
> (8) Submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed, in which case the period of adjustment set forth in

[2] PALM records indicate that the issue fee payment was received on December 22, 2010.

> § 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 last filed Information Disclosure Statement filed September 3, 2010, was filed 80 days after the response to the final rejection was filed on June 15, 2010. The record does not support a conclusion that the Examiner expressly requested the filing of the IDS. Further review of the Information Disclosure Statement did not reveal a statement under § 1.704(d). **Accordingly, pursuant to 37 CFR 1.704(c)(8), a period of reduction of eighty (80) days will be entered.**

In view thereof, the determination of the patent term adjustment at the time of the mailing of the notice of allowance is seventy-five (75) days (539 days of Office delay - 464 days of applicant delay).

The Office is in 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).

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).

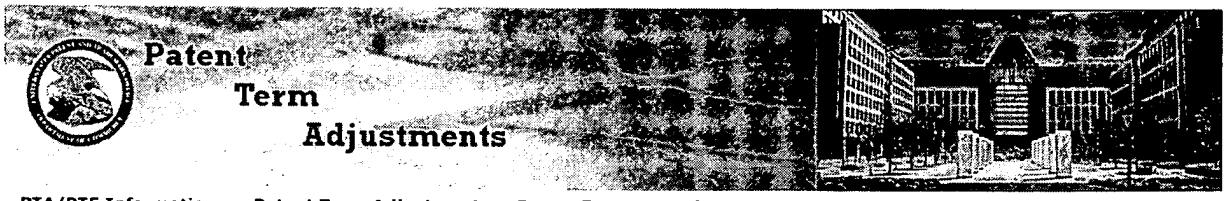
The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries regarding this specific matter should be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PALM screen



PTA/PTE Information | Patent Term Adjustment | Patent Term Extension

Application Number*: 11197038 Search | Explanation of PTA Calculation | Explanation of PTE Calculation

PTA Calculations for Application: 11197038

Application Filing Date	08/03/2005	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	539
A Delays	539	PTO Manual Adjustment	-80
B Delays	0	Applicant Delay (APPL)	384
C Delays	0	Total PTA (days)	75

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
144	01/26/2011		P028	Adjustment of PTA Calculation by PTO		80	0
128	11/26/2010	10/15/2010	MN/=.	Mail Notice of Allowance	42		105
127	11/23/2010		IREV	Issue Revision Completed			0
126	11/23/2010		DVER	Document Verification			0
125	11/23/2010		N/=.	Notice of Allowance Data Verification Completed			0
124	11/23/2010		DOCK	Case Docketed to Examiner in GAU			0
123	11/22/2010		EX.A	Examiner's Amendment Communication			0
122	11/22/2010		CNTA	Notice of Allowability			0
121	11/19/2010		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
120	09/03/2010		IDSC	Information Disclosure Statement considered			0
116	09/03/2010		RCAP	Reference capture on IDS			0
115	09/03/2010		M844	Information Disclosure Statement (IDS) Filed			0
114	09/03/2010		WIDS	Information Disclosure Statement (IDS) Filed			0
119	07/23/2010		IDSC	Information Disclosure Statement considered			0
113	07/23/2010		M844	Information Disclosure Statement (IDS) Filed			0
112	07/23/2010		WIDS	Information Disclosure Statement (IDS) Filed			0
118	07/02/2010		IDSC	Information Disclosure Statement considered			0
110	07/02/2010		M844	Information Disclosure Statement (IDS) Filed			0
109	07/02/2010		WIDS	Information Disclosure Statement (IDS) Filed			0
108	06/18/2010		FIDC	Finished Initial Data Capture			0
104	06/16/2010		ABN9	Disposal for a RCE / CPA / R129			0
117	06/15/2010		IDSC	Information Disclosure Statement considered			0
107	06/15/2010		RCAP	Reference capture on IDS			0
106	06/15/2010		M844	Information Disclosure Statement (IDS) Filed			0
105	06/15/2010		RCEX	Request for Continued Examination (RCE)			0
103	06/15/2010		WIDS	Information Disclosure Statement (IDS) Filed			0
102	06/15/2010		BRCE	Workflow - Request for RCE - Begin			0
101	06/14/2010		A.NA	Amendment after Notice of Allowance (Rule 312)			0
99	05/26/2010		TCPUB	TC Return to Pubs			0
98	05/20/2010		PUBTC	Pubs Case Remand to TC			0
96	05/18/2010		QURF	Workflow - Query Request - Finish			0
97	05/17/2010		TCPUB	TC Return to Pubs			0
93	05/10/2010		QURI	Workflow - Query Request - Begin			0
94	04/28/2010		PUBTC	Pubs Case Remand to TC			0
91	04/05/2010		CRFT	Sequence Forwarded to Pubs on Tape			0
90	03/26/2010		EIDC	Export to Initial Data Capture			0
89	03/23/2010		MEX.A	Mail Examiner's Amendment			0
88	03/23/2010	02/15/2010	MN/=.	Mail Notice of Allowance	36		65
95	03/19/2010		IDSC	Information Disclosure Statement considered			0
92	03/19/2010	10/15/2009	M844	Information Disclosure Statement (IDS) Filed		155	65
87	03/19/2010		WIDS	Information Disclosure Statement (IDS) Filed			0
86	03/19/2010		IREV	Issue Revision Completed			0
85	03/19/2010		DVER	Document Verification			0
84	03/19/2010		EX.A	Examiner's Amendment Communication			0
82	03/15/2010		N/=.	Notice of Allowance Data Verification Completed			0
81	03/15/2010		CNTA	Notice of Allowability			0
83	03/05/2010		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
74	12/22/2009		IDSC	Information Disclosure Statement considered			0
71	12/22/2009		M844	Information Disclosure Statement (IDS) Filed			0
70	12/22/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
66	12/14/2009		FWDX	Date Forwarded to Examiner			0
73	10/22/2009		IDSC	Information Disclosure Statement considered			0
69	10/22/2009		M844	Information Disclosure Statement (IDS) Filed			0
64	10/22/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
72	10/15/2009		IDSC	Information Disclosure Statement considered			0

68	10/15/2009		RCAP	Reference capture on IDS			0
67	10/15/2009		M844	Information Disclosure Statement (IDS) Filed			0
65	10/15/2009		A...	Response after Non-Final Action			0
63	10/15/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
62	07/15/2009	07/12/2009	MCTNF	Mail Non-Final Rejection	3		52
61	07/15/2009		CTNF	Non-Final Rejection			0
58	05/13/2009		FWDX	Date Forwarded to Examiner			0
56	04/16/2009		CRFE	CRF Is Good Technically / Entered into Database			0
57	03/24/2009	03/12/2009	SA..	Supplemental Response		12	52
53	03/19/2009		FWDX	Date Forwarded to Examiner			0
59	03/12/2009		IDSC	Information Disclosure Statement considered			0
55	03/12/2009		RCAP	Reference capture on IDS			0
54	03/12/2009		M844	Information Disclosure Statement (IDS) Filed			0
52	03/12/2009		ELC.	Response to Election / Restriction Filed			0
51	03/12/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
47	02/26/2009		MEXIN	Mail Examiner Interview Summary (PTOL - 413)			0
46	02/19/2009		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
45	02/12/2009		MCTRS	Mail Restriction Requirement			0
44	02/11/2009		CTRS	Requirement for Restriction / Election			0
34	11/20/2008		FWDX	Date Forwarded to Examiner			0
33	11/07/2008	06/27/2008	ELC.	Response to Election / Restriction Filed		133	26
32	10/09/2008		NINA	Mail Notice of Informal or Non-Responsive Amendment			0
27	08/04/2008		FWDX	Date Forwarded to Examiner			0
40	07/03/2008		IDSC	Information Disclosure Statement considered			0
31	07/03/2008		RCAP	Reference capture on IDS			0
30	07/03/2008		M844	Information Disclosure Statement (IDS) Filed			0
24	07/03/2008		WIDS	Information Disclosure Statement (IDS) Filed			0
39	06/27/2008		IDSC	Information Disclosure Statement considered			0
29	06/27/2008		RCAP	Reference capture on IDS			0
28	06/27/2008		M844	Information Disclosure Statement (IDS) Filed			0
26.1	06/27/2008		A.I.	Informal or Non-Responsive Amendment after Examiner Action			0
26	06/27/2008	04/04/2008	ELC.	Response to Election / Restriction Filed		84	22
25	06/27/2008		XT/G	Request for Extension of Time - Granted			0
23	06/27/2008		WIDS	Information Disclosure Statement (IDS) Filed			0
22	01/04/2008	10/03/2006	MCTRS	Mail Restriction Requirement	458		0.5
21	01/02/2008		CTRS	Requirement for Restriction / Election			0
49	10/24/2007		RCAP	Reference capture on IDS			0
48	10/24/2007		M844	Information Disclosure Statement (IDS) Filed			0
38	10/24/2007		IDSC	Information Disclosure Statement considered			0
37	10/24/2007		IDSC	Information Disclosure Statement considered			0
20	10/24/2007		WIDS	Information Disclosure Statement (IDS) Filed			0
19	10/24/2007		WIDS	Information Disclosure Statement (IDS) Filed			0
18	03/25/2007		LET.	Miscellaneous Incoming Letter			0
17	11/09/2005		TSSCOMP	IFW TSS Processing by Tech Center Complete			0
16	11/09/2005		DOCK	Case Docketed to Examiner in GAU			0
15	10/19/2005		WROIPE	Application Return from OIPE			0
14	10/19/2005		COMP	Application Is Now Complete			0
13	10/19/2005		ROIPE	Application Return TO OIPE			0
12	10/19/2005		OIPE	Application Dispatched from OIPE			0
11	10/19/2005		COMP	Application Is Now Complete			0
10	10/06/2005		ADDFLFEE	Additional Application Filing Fees			0
9	10/06/2005		OATHDECL	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic			0
8	09/13/2005		L128	Cleared by L&R (LARS)			0
7	08/31/2005		INCD	Notice Mailed--Application Incomplete--Filing Date Assigned			0
5	08/19/2005		L198	Referred to Level 2 (LARS) by OIPE CSR			0
4	08/16/2005		CRFE	CRF Is Good Technically / Entered into Database			0
3	08/16/2005		SCAN	IFW Scan & PACR Auto Security Review			0
2	08/03/2005		CRFL	CRF Disk Has Been Received by Preexam / Group / PCT			0
1	08/03/2005		IEXX	Initial Exam Team nn			0
0.5	08/03/2005		EFILE	Filing date			0

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Houston TX 77063

MAILED
JAN 12 2012
OFFICE OF PETITIONS

In re Application of	:	ON REQUEST FOR
Alan H. Ostroff	:	RECONSIDERATION OF
Application No. 11/197137	:	PATENT TERM ADJUSTMENT
Filing or 371(c) Date: 08/04/2005	:	
Attorney Docket Number:	:	
CAMP0053US (CH-0074)	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT DETERMINATION UNDER § 1.705 AND MPEP 2734 AND STATEMENT THEREOF," filed November 30, 2011. Applicant petitions for reconsideration of the patent term adjustment to seven hundred fifty-four (754) days, not four hundred eighty-eight (488) 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 calculating a reduction of 266 days.

The Application for Patent Term Adjustment Including Request for Reconsideration of Patent Term Adjustment ("PTA") under 37 CFR 1.705(b), as it relates to the assertion that the Office erred in calculating a reduction of 266 days is **GRANTED**.

On September 16, 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 four hundred eighty-eight (488) days.

On November 30, 2011, Applicant timely submitted the instant application for patent term adjustment[1]. Applicant requests that the Determination of Patent Term Adjustment be corrected from four hundred eighty-eight (488) days, as indicated on the Determination of PTA mailed August 15, 2011, to an adjustment of seven hundred fifty-four (754) days. Applicant avers that the Office erred in calculating a reduction of 266 days.

Applicant asserts that the Office erred in calculating a reduction of 266 days. The Determination of Patent Term Adjustment under 35 U.S.C. 154(b) mailed November 30, 2011 indicates a patent term of four hundred eighty-eight (488) days. The present request for reconsideration of patent term adjustment indicates that the Office may have erred in calculating a reduction of 266 days

[1] PALM records show that the Issue Fee payment was received in the Office on December 16, 2011.

in connection with the filing of a Supplemental Response on August 12, 2011, filed in reply to an Interview with the Examiner, conducted August 5, 2011, and 266 days after filing a reply to a final Office action on November 19, 2011.

Office records confirm that the Supplemental Response filed on August 12, 2011, was filed in reply to an Interview with the Examiner, conducted August 5, 2011. Accordingly, the period of reduction of 266 days entered for the reply is not warranted and is being removed.

In view thereof, as of the time of allowance, the application is entitled to an overall patent term adjustment of seven hundred fifty-four (754) 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.

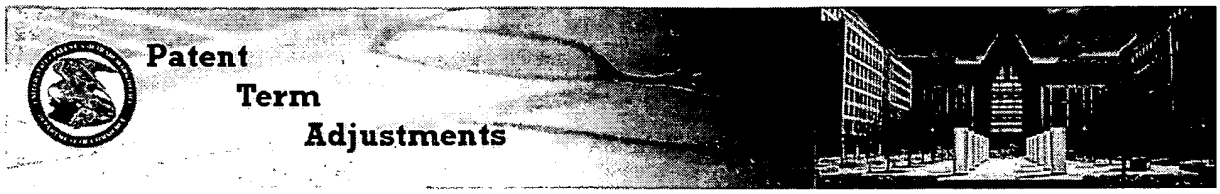
The application is being forwarded to the Publications Division for issuance of a patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing 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



PTA/PTE Information | Patent Term Adjustment | Patent Term Extension

Application Number*: 11197137 Search | Explanation of PTA Calculation | Explanation of PTE Calculation

PTA Calculations for Application: 11197137

Application Filing Date	08/04/2005	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	756
A Delays	756	PTO Manual Adjustment	266
B Delays	0	Applicant Delay (APPL)	268
C Delays	0	Total PTA (days)	754

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
119	01/10/2012		P028	Adjustment of PTA Calculation by PTO	266	0	
110	09/16/2011	03/19/2011	MN/=.	Mail Notice of Allowance	181	75	
109	09/12/2011		OAR	Office Action Review		0	
108	09/12/2011		OAR	Office Action Review		0	
107	09/12/2011		OAR	Office Action Review		0	
106	09/12/2011		OAR	Office Action Review		0	
105	09/12/2011		IREV	Issue Revision Completed		0	
104	08/31/2011		OAR	Office Action Review		0	
103	08/31/2011		OAR	Office Action Review		0	
102	08/31/2011		OAR	Office Action Review		0	
101	08/31/2011		OAR	Office Action Review		0	
100	08/31/2011		ACRE	Allowed Case Returned to the Examiner for Clerical Processing		0	
99	08/31/2011		N/=.	Notice of Allowance Data Verification Completed		0	
98	08/31/2011		DOCK	Case Docketed to Examiner in GAU		0	
97	08/31/2011		DVER	Document Verification		0	
95	08/28/2011		EX.R	Reasons for Allowance		0	
94	08/28/2011		EX.A	Examiner's Amendment Communication		0	
93	08/28/2011		CNTA	Allowability Notice		0	
92	08/25/2011		FWDX	Date Forwarded to Examiner		0	
96	08/19/2011		EXIE	Interview Summary - Examiner Initiated		0	
91	08/12/2011	11/19/2010	SA..	Supplemental Response	266	75	
87	08/05/2011		EML_NTR	Email Notification		0	
86	08/05/2011		MEXIN	Mail Examiner Interview Summary (PTOL - 413)		0	
85	08/03/2011		EML_NTR	Email Notification		0	
83	08/03/2011		MEXIN	Mail Examiner Interview Summary (PTOL - 413)		0	
84	07/29/2011		OAR	Office Action Review		0	
81	07/29/2011		EXIN	Examiner Interview Summary Record (PTOL - 413)		0	
82	07/27/2011		OAR	Office Action Review		0	
80	07/27/2011		EXIN	Examiner Interview Summary Record (PTOL - 413)		0	
77	11/24/2010		FWDX	Date Forwarded to Examiner		0	
74	11/24/2010		ABN9	Disposal for a RCE / CPA / R129		0	
76	11/19/2010		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE		0	
75	11/19/2010		RCEX	Request for Continued Examination (RCE)		0	
73	11/19/2010		BRCE	Workflow - Request for RCE - Begin		0	
72	11/03/2010		EML_NTR	Email Notification		0	
71	11/03/2010		MCTAV	Mail Advisory Action (PTOL - 303)		0	
70	10/29/2010		CTAV	Advisory Action (PTOL-303)		0	
69	10/20/2010		FWDX	Date Forwarded to Examiner		0	
68	10/19/2010		A.NE	Amendment after Final Rejection		0	
67	08/19/2010		ELC_RVW	Electronic Review		0	
66	08/19/2010		EML_NTF	Email Notification		0	
65	08/19/2010		MCTFR	Mail Final Rejection (PTOL - 326)		0	
64	08/16/2010		CTFR	Final Rejection		0	
63	06/19/2010		FWDX	Date Forwarded to Examiner		0	
62	06/14/2010	06/12/2010	A...	Response after Non-Final Action	2	59	
61	03/15/2010		ELC_RVW	Electronic Review		0	
60	03/12/2010		EML_NTF	Email Notification		0	
59	03/12/2010		MCTNF	Mail Non-Final Rejection		0	
58	03/09/2010		CTNF	Non-Final Rejection		0	
57	02/17/2010		INHY	case Inherited		0	
54	01/07/2010		DOCK	Case Docketed to Examiner in GAU		0	
53	12/23/2009		FWDX	Date Forwarded to Examiner		0	
52	12/14/2009		A.NE	Amendment after Final Rejection		0	
51	10/14/2009		MCTFR	Mail Final Rejection (PTOL - 326)		0	
50	10/13/2009		CTFR	Final Rejection		0	

49	09/16/2009		FWDX	Date Forwarded to Examiner		0
48	08/17/2009		A...	Response after Non-Final Action		0
47	05/20/2009		MCTNF	Mail Non-Final Rejection		0
46	05/20/2009		CTNF	Non-Final Rejection		0
45	04/30/2009		FWDX	Date Forwarded to Examiner		0
43	04/30/2009		FWDX	Date Forwarded to Examiner		0
41	04/30/2009		ABN9	Disposal for a RCE / CPA / R129		0
44	04/24/2009		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE		0
42	04/24/2009		RCEX	Request for Continued Examination (RCE)		0
40	04/24/2009		BRCE	Workflow - Request for RCE - Begin		0
39	04/07/2009		MCTAV	Mail Advisory Action (PTOL - 303)		0
38	04/06/2009		CTAV	Advisory Action (PTOL-303)		0
37	04/01/2009		FWDX	Date Forwarded to Examiner		0
36	03/26/2009		A.NE	Amendment after Final Rejection		0
35	01/27/2009		MCTFR	Mail Final Rejection (PTOL - 326)		0
34	01/21/2009		CTFR	Final Rejection		0
30	10/30/2008		FWDX	Date Forwarded to Examiner		0
33	10/09/2008		IDSC	Information Disclosure Statement considered		0
32	10/09/2008		RCAP	Reference capture on IDS		0
31	10/09/2008	10/09/2008	M844	Information Disclosure Statement (IDS) Filed		29
29	10/09/2008		A...	Response after Non-Final Action		0
28	10/09/2008		WIDS	Information Disclosure Statement (IDS) Filed		0
27	07/09/2008		MCTNF	Mail Non-Final Rejection		0
26	07/07/2008		CTNF	Non-Final Rejection		0
22	06/26/2008		FWDX	Date Forwarded to Examiner		0
21	05/30/2008		ELC.	Response to Election / Restriction Filed		0
20	05/30/2008		C602	Oath or Declaration Filed (Including Supplemental)		0
19	05/01/2008	10/04/2006	MCTRS	Mail Restriction Requirement	575	0.5
18	04/28/2008		CTRS	Restriction/Election Requirement		0
25	02/04/2008		IDSC	Information Disclosure Statement considered		0
17	02/04/2008		RCAP	Reference capture on IDS		0
16	02/04/2008		EIDS.	Electronic Information Disclosure Statement		0
15	02/04/2008		WIDS	Information Disclosure Statement (IDS) Filed		0
14	11/14/2007		DOCK	Case Docketed to Examiner in GAU		0
13	08/20/2007		C.AD	Correspondence Address Change		0
12	08/20/2007		PA..	Change in Power of Attorney (May Include Associate POA)		0
11	02/08/2007		PG-ISSUE	PG-Pub Issue Notification		0
24	09/14/2006		IDSC	Information Disclosure Statement considered		0
10	09/14/2006		RCAP	Reference capture on IDS		0
9.7	09/14/2006		M844	Information Disclosure Statement (IDS) Filed		0
9	09/14/2006		WIDS	Information Disclosure Statement (IDS) Filed		0
8	08/08/2006		TSSCOMP	IFW TSS Processing by Tech Center Complete		0
23	10/24/2005		IDSC	Information Disclosure Statement considered		0
7	10/24/2005		RCAP	Reference capture on IDS		0
6.7	10/24/2005		M844	Information Disclosure Statement (IDS) Filed		0
6	10/24/2005		WIDS	Information Disclosure Statement (IDS) Filed		0
5	08/26/2005		OIPE	Application Dispatched from OIPE		0
4	08/26/2005		COMP	Application Is Now Complete		0
3	08/19/2005		L194	Cleared by OIPE CSR		0
2	08/16/2005		SCAN	IFW Scan & PACR Auto Security Review		0
1	08/04/2005		IEXX	Initial Exam Team nn		0
0.5	08/04/2005		EFILE	Filing date		0

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SUITE 1201
NEW HAVEN, CT 06510

Mail Date: 08/06/2010

Applicant	: Gordon L. Shwisha	: DECISION ON REQUEST FOR
Patent Number	: 7658518	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/197,161	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/03/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **725** 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.:20111207

DATE : December 13, 2011

TO SPE OF : ART UNIT 1773

SUBJECT : Request for Certificate of Correction on Patent No.: 7767151

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-910
Palm location **7590** - Tel. No. 305-8201

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance — **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ **Approved** — **All** changes apply.

☐ **Approved in Part** — Specify below which changes **do not** apply.

☐ **Denied** — State the reasons for denial below.

Comments:

SPE: Jill Warden — **Art Unit** 1773

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ST. LOUIS MO 63105

MAILED

JUN 13 2011

OFFICE OF PETITIONS

In re Application of :
Kim, et al. :
Application No. 11/197,322 : DECISION ON PETITIONS
Filed: August 5, 2005 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 15295-000006/US : AND 37 CFR 1.55(c)

This application has been referred to the Office of Petitions for consideration of the petition filed under 37 CFR 1.78(a)(3), filed May 6, 2011. This matter is being treated under 37 CFR 1.78(a)(3) and 37 CFR 1.55(c), to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional application, and under 35 U.S.C. § 119(a)-(d) for the benefit of priority to a prior-filed foreign application, as set forth in the concurrently filed amendment.

As to the benefit claim under 37 CFR 1.78(a)(3):

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000 and after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

As to the benefit claim under 37 CFR 1.55(c):

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;

(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date, **and be included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6);**

(3) the surcharge as set forth in 37 CFR 1.17(t);

(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional. (The Director may require additional information where there is a question whether the delay was unintentional); and

(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

With respect to the foreign application referenced on the specification submitted herewith, the petition fails to comply with item (2) above. In this regard, a review of the file record fails to disclose that the foreign priority information was included in an oath or declaration or in an Application Data Sheet (ADS) in accordance with 37 CFR 1.76(b)(6). Unless provided in an ADS, 37 CFR 1.63(c)(2) requires that the oath or declaration must identify the foreign application for patent (or inventor's certificate) for which priority is claimed under 37 CFR 1.55, and any foreign application having a filing date before that of the application on which priority is claimed, by specifying the application number, country, day, month, and year of its filing. Note MPEP 201.14.

In view of the above, compliance with 37 CFR 1.63(c)(2) or 37 CFR 1.76(b)(6) must be satisfied if applicant desires to claim priority to the foreign application noted in the petition. Any future petition should include a cover letter and be entitled "Renewed Petition under 37 CFR 1.78 and 1.55(c)."

Accordingly, the petition is **DISMISSED**.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-3205.

/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

MAILED

AUG 22 2011

OFFICE OF PETITIONS

HARNESS, DICKEY, & PIERCE, P.L.C
7700 Bonhomme, Suite 400
ST. LOUIS MO 63105

In re Application of
Kim, et al.
Application No. 11/197,322
Filed: August 5, 2005
Attorney Docket No. 15295-000006/US

: DECISION ON PETITIONS
: UNDER 37 CFR 1.78(a)(3)
: AND 37 CFR 1.55(c)

This is a decision on the petitions under 37 CFR 1.78(a)(3) and 37 CFR 1.55(c), filed June 23, 2011, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional applications, and under 35 U.S.C. § 119(a)-(d) for the benefit of priority to a prior-filed foreign application, as set forth in the concurrently filed amendment.

As to the benefit claim under 37 CFR 1.78(a)(3):

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000 and after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

All requirements being met, the petition to accept an unintentionally delayed claim for benefit of priority to the prior-filed nonprovisional applications under 35 U.S.C. § 120 is **GRANTED.**

As to the benefit claim under 37 CFR 1.55(c):

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;
(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date, and be included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6);
(3) the surcharge as set forth in 37 CFR 1.17(t);
(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional. (The Director may require additional information where there is a question whether the delay was unintentional); and
(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

This application was filed on August 5, 2005, which is after November 29, 2000 and within 12 months of October 22, 2004 (the filing date of the foreign application to which benefit is now being claimed). On June 23, 2011, an executed oath/declaration was received which identifies the foreign application for which priority is claimed by application number, country and filing date. The required petition fee was previously received. Lastly, petitioner has provided an adequate statement of unintentional delay.

The petition to accept an unintentionally delayed claim for priority under 35 U.S.C. § 119(a)-(d) 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 37 CFR 1.55(c) 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 365(c) and 37 CFR 1.78(a)(1) and (a)(2) and 35 § U.S.C. 119(a)-(d) and 37 CFR 1.55(a)(1) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed 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 accompanies this decision on petition.

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

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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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
11/197,322	08/05/2005	1788	1000	15295-000006/US	2	1

CONFIRMATION NO. 7023

CORRECTED FILING RECEIPT

28997
HARNESS, DICKEY, & PIERCE, P.L.C
7700 Bonhomme, Suite 400
ST. LOUIS, MO 63105

OC000000049443785

Date Mailed: 08/22/2011

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)

Sang-Pil Kim, Gyeongsangbuk-do, KOREA, REPUBLIC OF;
Ki-Jeong Moon, Daegu, KOREA, REPUBLIC OF;
Woo-Seok Kim, Gyeonggi-do, KOREA, REPUBLIC OF;

Assignment For Published Patent Application

TORAY SAEHAN INC., Gyeongsangbuk-do, KOREA, REPUBLIC OF

Power of Attorney: The patent practitioners associated with Customer Number 28997

Domestic Priority data as claimed by applicant

This application is a CIP of 11/107,894 04/18/2005 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.)
REPUBLIC OF KOREA 10-2005-0053707 06/21/2005
REPUBLIC OF KOREA 10-2004-0084712 10/22/2004

If Required, Foreign Filing License Granted: 08/29/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/197,322**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Adhesive tape for electronic components

Preliminary Class

428

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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David W. Highet, VP & Chief IP Counsel
Becton, Dickinson and Company
(Lerner David Littenberg)
1 Becton Drive , MC 110
Franklin Lakes, NJ 07417-1880

Mail Date: 08/04/2010

Applicant	: Tobin J. Hellyer	: DECISION ON REQUEST FOR
Patent Number	: 7662562	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/197,594	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/05/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **214** 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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Raytheon Company
2000 East El Segundo Boulevard
PO Box 902
El Segundo CA 90245-0903

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FEB 17 2011

OFFICE OF PETITIONS

In re Application of	:	
Alkov et al.	:	
Application No.: 11/197789	:	ON PETITION
Filing or 371(c) Date: 08/04/2005	:	
Attorney Docket Number: 05W012	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 19, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before May 12, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed February 12, 2010. Accordingly, the date of abandonment of this application is May 13, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee; (2) the petition fee; and (3) a proper statement of unintentional delay.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

This application is being referred to the Office of Data Management for processing into a patent.

/DLW/

Derek L. Woods
Attorney
Office of Petitions

CC: WILLIAM J. BRENMAN
2049 CENTURY PARK EAST, SUITE 2740
LOS ANGELES, CA 90067

UNITED STATES PATENT AND TRADEMARK OFFICE

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STANFORD UNIVERSITY
OFFICE OF TECHNOLOGY LICENSING
BOZICEVIC, FIELD & FRANCIS LLP
1900 UNIVERSITY AVENUE
SUITE 200
EAST PALO ALTO CA 94303

MAILED

MAR 09 2012

OFFICE OF PETITIONS

In re Patent No. 7,462,688 :
Issue Date: 9 December, 2008 :
Application No. 11/198,068 : ON PETITION
Filed: 4 August, 2005 :
Attorney Docket No. STAN-258CIP5 (S05-161) :

This is a decision on the petition filed on 18 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. 7,462,688
Application No. 11/198,068

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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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STANFORD UNIVERSITY OFFICE OF TECHNOLOGY LICENSING
BOZICEVIC, FIELD & FRANCIS LLP
1900 UNIVERSITY AVENUE
SUITE 206
EAST PALO ALTO CA 94303

MAILED

MAR 20 2012

OFFICE OF PETITIONS

In re Patent No. 7,462,688
Issue Date: December 9, 2008
Application No. 11/198,068
Filed: August 4, 2005
Attorney Docket No. STAN-258CIPS (S05-161)

DECISION ON REQUEST FOR REFUND

This is a decision on the Request For Refund filed March 1, 2012.

The request is **DISMISSED**.

Applicant files the above request for refund and states that "On January 18, 2012, applicants filed a change of entity (copy attached) and authorized payment of the itemized fees for deficiencies owed throughout prosecution. However, upon further review, applicants believe that the status of small entity was established properly at the time of filing the above referenced application. The loss of entitlement to small entity occurred September 2006, after the filing date of application referenced herein. Pursuant to § 1.27 once small entity status is established in an application or patent, fees as small entity may thereafter be paid in that application or patent without regard to a change in status until the issue fee is due or any maintenance fee is due. Therefore, the proper fees owed, were the deficiencies in the payment of the Issue Fee."

However, while applicant was not required to recognize the loss of entitlement to small entity status until payment of the issue fee or maintenance fee, applicant did so. **Thus, applicant may no longer claim entitlement to small entity status for future fees, nor may applicant request a refund under 37 CFR § 1.26(b) of the fees paid on January 18, 2012 based on current entitlement to small entity status.**

Applicant may however request a refund under § 1.26(a) as the small entity fee were properly originally paid as a small entity and the large entity portions later paid were done by mistake or were in excess of that required. Therefore, a specific itemization of the fees to be refunded to **exclude** the issue fee payment, which would not be refunded, is required.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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CHARLES G. CALL
361 WILD COFFEE LN
MARCO ISLAND FL 34145-1849

MAILED

OCT 06 2010

OFFICE OF PETITIONS

In re Application of :
Logan et al. :
Application No. 11/198,124 : DECISION ON PETITION
Filed: August 6, 2005 :
Attorney Docket No. F-12 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 2, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, October 8, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on January 9, 2010. A Notice of Abandonment was mailed May 4, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment, (2) the petition fee of $810.00, and (3) a proper statement of unintentional delay.

It is not apparent whether the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute this application. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts.

Further, 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 2876 for appropriate action by the Examiner in the normal course of business on the reply received.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Charles G. Call
1329 N. Dearborn St., Apt. 3
Chicago, IL 60603

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CHARLES G. CALL
361 WILD COFFEE LN
MARCO ISLAND, FL 34145-1849

MAILED

AUG 08 2011

OFFICE OF PETITIONS

In re Application of :
James D. Logan et al :
Application No. 11/198,124 : ON PETITION
Filed: August 6, 2005 :
Attorney Docket No. F-12 :

This is a decision on the petition under 37 CFR 1.137(b), filed July 18, 2011, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed December 23, 2010, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on March 24, 2011.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2876 for further processing.

Irvin Dingle
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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AUG 02 2010

OFFICE OF PETITIONS

ADAMS PATENT & TRADEMARK AGENCY
P.O. BOX 11100, STATION H
OTTAWA ON K2H 7T8 CA CANADA

In re Application of
Ian Thomson, et al.
Application No. 11/198,159
Filed: August 8, 2005
Attorney Docket No. AP1071US

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 25, 2010.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The Office strongly encourages practitioner(s) requesting withdrawal from representation as practitioner of record in an application to review the record to determine whether he or she is, in fact, of record and how he or she was made of record. The practitioner(s) should determine whether he or she was appointed by naming each practitioner individually or through the use of a Customer Number. If the practitioner(s) were appointed by a specific designation, then the request should ask that each specified practitioner be withdrawn and should list each practitioner(s) in the Request. Similarly, if practitioner(s) was appointed by a Customer Number, the practitioner(s) should ensure that the correct number is provided in the Request Additionally, as set forth in MPEP 403(I), the addition or deletion of a practitioner from the list of persons associated with a Customer Number should be done by way of a *Request for Customer umber Data Change* (PTO/SB/124) and not a *Request for Withdrawal As Attorney or Agent and Change of Correspondence Address* (PTO/SB/83).

The request cannot be approved because practitioners were appointed by customer number. Practitioners must withdraw in the same manner that they were appointed.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

cc: BEST MEDICAL CANADA LTD.
413 MARCH ROAD
KANATA, ON K2K 0E4
CANADA

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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ADAMS PATENT & TRADEMARK AGENCY
P.O. box 11100, Station H
Ottawa, ON K2H 7T8
Canada

MAILED

AUG 3 1 2010

OFFICE OF PETITIONS

In re Application of	:	
Ian Thomson, et al.	:	
Application No. 11/198,159	:	DECISION ON PETITION
Filed: August 8, 2005	:	TO WITHDRAW
Attorney Docket No. 11/198,159_BMC	:	FROM RECORD

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 9, 2010.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to Adams Patent & Trademark Agency has been revoked by the assignee of the patent application on August 18, 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 Terri Johnson at 571-272-2991.

Terri Johnson
Petitions Examiner
Office of Petitions

cc: **Best Medical International**
7643 Fullerton Road
Springfield VA 22153

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United States Patent and Trademark Office
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FEB 17 2011

PCT LEGAL ADMINISTRATION

COOLEY LLP
ATTN: Patent Group
Suite 1100
777 - 6th Street, NW
WASHINGTON DC 20001

In re Application of EADIE et al. :
Application No.: 11/198,163 : DECISION ON
Filing Date: 08 August 2005 :
Attorney Docket No.:GOWL-012/01US306506-2017: PETITION
For: MODIFIED FRICTION CONTROL :
COMPOSITIONS : UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition under 37 CFR 1.78(a)(3), filed 09 April 2010 to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to the international application identified in the concurrently filed amendment to the specification.

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 does not comply with item (1).

The reference to add the prior-filed applications on page one of the specification following the title of the invention is not acceptable as drafted since it improperly incorporates by reference the prior-filed international application. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application

after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 120 after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 120 is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

Any questions concerning this matter may be directed to Cynthia Kratz at (571) 272-3286.

Any further correspondence with respect to this matter may be filed electronically via EFS-Web selecting the document description "Petition for review and processing by the PCT Legal Office" or by mail addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

/Bryan Lin/
Bryan Lin
PCT Legal Examiner
Office of PCT Legal Administration

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA VA 22314

MAILED

OCT 2 1 2010

OFFICE OF PETITIONS

In re Application of :
Cheol An Kim et al. :
Application No. 11/198,174 : NOTICE
Filed: August 8, 2005 :
Attorney Docket No. **276547US2** :

This is a notice regarding your request filed September 29, 2008, 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 application must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-4584.

JoAnne Burke
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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NIXON PEABODY, LLP
401 9TH STREET, NW
SUITE 900
WASHINGTON, DC 20004-2128

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NOV 10 2010

OFFICE OF PETITIONS

In re Application of
Mark J. Sefik, et al.
Application No. 11/198,176
Filed: August 8, 2005
Attorney Docket No. 111325-029000

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 10, 2010.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The Office strongly encourages practitioner(s) requesting withdrawal from representation as practitioner of record in an application to review the record to determine whether he or she is, in fact, of record and how he or she was made of record. The practitioner(s) should determine whether he or she was appointed by naming each practitioner individually or through the use of a Customer Number. If the practitioner(s) were appointed by a specific designation, then the request should ask that each specified practitioner be withdrawn and should list each practitioner(s) in the Request. Similarly, if practitioner(s) was appointed by a Customer Number, the practitioner(s) should ensure that the correct number is provided in the Request Additionally, as set forth in MPEP 403(I), the addition or deletion of a practitioner from the list of persons associated with a Customer Number should be done by way of a *Request for Customer umber Data Change* (PTO/SB/124) and not a *Request for Withdrawal As Attorney or Agent and Change of Correspondence Address* (PTO/SB/83).

The request cannot be approved because practitioners were appointed by customer number. Practitioners must withdraw in the same manner that they were appointed. Further since the statement under 37 CFR 3.73(b) is considered improper, the request to change the correspondence address is not accepted since it does not list a proper correspondence address to forward future communication 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). The power of attorney filed October 7, 2010 does not include a proper application number and filing date on the statement under 37 CFR 3.73(b).

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: CONTENTGUARD HOLDINGS. INC
222 N. SEPULVEDA BLVD.,
SUITE 1400
EL SEGUNDO, CA 90245

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United States Patent and Trademark Office
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MEREDITH & KEYHANI, PLLC
330 MADISON AVE.
6TH FLOOR
NEW YORK NY 10017

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MAR 24 2011

OFFICE OF PETITIONS

In re Application of :
Jay Chun :
Application No. 11/198,218 : DECISION ON PETITION
Filed: August 5, 2005 TO WITHDRAW FROM RECORD
Attorney Docket No. 64756.6 :
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 14, 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 will require the practitioner(s) to certify that he, she or they have: (1) given reasonable notice to the client, prior to the expiration of the reply period, which the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any replies that may be due and the time frame within which the client must respond, pursuant to 37 CFR 10.40 (c).

The request was signed by Fariba Sirjani on behalf of himself. Accordingly, Fariba Sirjani associated with the above-identified application has been withdrawn as attorney of record in the above-identified application.

The correspondence address of record remains unchanged.

Additionally, the address given on the petition differs from the address of record. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Currently, there is no outstanding Office action that requires a reply.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Fariba Sirjani
925 Delaware Avenue, Apt 9C
Buffalo, NY 14209

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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AT&T Legal Department - RO
Attn: Patent Docketing
Room 2A-207
One AT&T Way
Bedminster NJ 07921

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JUN 03 2011
OFFICE OF PETITIONS

In re Application of :
ROBERTS et al. :
Application No. 11/198,252 : DECISION ON PETITION
Filed: August 5, 2005 : UNDER 37 CFR 1.55(c)
Attorney Docket No. MARSP0125USA :

This is a decision on the petition under 37 CFR 1.55(c), filed April 26, 2011, to accept an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for benefit of priority to the filing date of foreign United Kingdom Application No. 9910280.8, filed May 4, 1999.

The petition is **DISMISSED**.

This application was filed after November 29, 2000, and did not include a reference to the foreign application, for which benefit is now sought, within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior foreign application. Since the claim for priority is submitted after the period specified in 37 CFR 1.55(a)(1)(i), this is an appropriate petition under the provisions of 37 CFR 1.55(c).

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;
(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date, **and be included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6))**;
(3) the surcharge as set forth in 37 CFR 1.17(t);

(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional (the Director may require additional information where there is a question whether the delay was unintentional); and

(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

The petition fails to comply with item (2) above. In this regard, a review of the file record fails to disclose that the priority information was included in an oath or declaration or in an Application Data Sheet (ADS) in accordance with 37 CFR 1.76(b)(6). Unless provided in an ADS, 37 CFR 1.63(c)(2) requires that the oath or declaration must identify the foreign application for patent (or inventor's certificate) for which priority is claimed under 37 CFR 1.55, and any foreign application having a filing date before that of the application on which priority is claimed, by specifying the application number, country, day, month, and year of its filing. *Note* MPEP 201.14.

In regards to item (4), 37 CFR § 1.55(c) requires a statement that the entire delay between the date the claim was due under 37 CFR § 1.55(a)(1) and the date the claim was filed was unintentional. Since the statement appearing in the petition varies from the required language, the statement is being construed as the statement required by 37 CFR §1.55(c). If this is not a correct reading of the statement appearing in the petition, petitioner should promptly notify the Office.

Further, petitioner should clarify that the reference statement refers to "this application". The statement that "this patent arises from" causes confusing as to whether priority is being claimed.

In view of the above, compliance with 37 CFR 1.63(c)(2) or 37 CFR 1.76(b)(6) must be satisfied if applicant desires to claim priority to the foreign application noted in the petition. Any future petition should include a cover letter and be entitled "Renewed Petition under 37 CFR 1.55(c)."

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Jose' G Dees at (571) 272-1569.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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AT&T Legal Department - HFZ (II)
Attn: Patent Docketing
Room 2A-207
One AT&T Way
Bedminster NJ 07921

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SEP 15 2011

OFFICE OF PETITIONS

In re Application of :
ROBERTS et al. :
Application No. 11/198,252 : DECISION ON PETITION
Filed: August 5, 2005 : UNDER 37 CFR 1.55(c)
Attorney Docket No.: MARSP0125USA :

This is a decision on the renewed petition under 37 CFR 1.55(c), filed August 2, 2011, to accept an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for the benefit of a prior-filed foreign application, as set forth in the concurrently filed amendment and Application Data Sheet, respectively.

The petition is **GRANTED**.

This pending nonprovisional application was filed after November 29, 2000, and did not include a reference to the foreign application, for which benefit is now sought, within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior foreign application. Since the claim for priority is submitted after the period specified in 37 CFR 1.55(a)(1)(i), this is an appropriate petition under the provisions of 37 CFR 1.55(c).

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;

(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date and be included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6);

(3) the surcharge as set forth in 37 CFR 1.17(t);

(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional (the Director may require additional information where there is a question whether the delay was unintentional); and

(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

This application was filed as a divisional of US Patent Application 09/980,539 which is the US National Stage of International Application No. PCT/GB00/01691 filed on May 3, 2000, which is within 12 months of May 4, 1999 (the filing date of the foreign application to which benefit is now being claimed). On August 2, 2011, an executed Application Data Sheet was received which identifies the foreign application for which priority is claimed by application number, country and filing date. The required petition fee of $1410.00 was received with the petition dated April 26, 2011. Lastly, petitioner has provided an adequate statement of unintentional delay

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 119(a)-(d) is accepted as being unintentionally delayed.

In regards to the amendment submitted after the Notice of Allowance, the examiner has indicated that the proposed amendment would be entered as shown in the attached Response to Rule 312 Communication.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.55(c) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 119(a)-(d) and 37 CFR 1.55(a)(1) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether this application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed foreign application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Jose' G Dees at (571) 272-1569. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being referred to Technology Center AU 2184 for examination in due course and for consideration by the examiner of record of the foreign priority claim under 35 U.S.C. § 119(a)-(d).

/David Bucci/
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt and Response to Rule 312 Communication.

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
11/198,252	08/05/2005	2184	1550	MARSP0125USA	31	3

CONFIRMATION NO. 8604

CORRECTED FILING RECEIPT

38973
AT&T Legal Department - HFZ (II)
Attn: Patent Docketing
Room 2A-207
One AT&T Way
Bedminster, NJ 07921

Date Mailed: 09/16/2011

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Derek Edward Roberts, Cambridge, UNITED KINGDOM;
Steven Leslie Pope, Cambridge, UNITED KINGDOM;
Glenford Ezra Mapp, Cambridge, UNITED KINGDOM;
Stephen John Hodges, London, UNITED KINGDOM;

Assignment For Published Patent Application

AT&T Laboratories-Cambridge Ltd.

Power of Attorney:

Neil DuChez--26725
Mark Saralino--34243

Domestic Priority data as claimed by applicant

This application is a DIV of 09/980,539 05/13/2002 ABN *
which is a 371 of PCT/GB00/01691 05/03/2000
(*)Data provided by applicant is not consistent with PTO records.

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 9910280.8 05/04/1999

If Required, Foreign Filing License Granted: 08/26/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/198,252**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
Title

DATA TRANSFER, SYNCHRONISING APPLICATIONS, AND LOW LATENCY NETWORKS

Preliminary Class

710

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where

the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

Response to Rule 312 Communication	Application No.	Applicant(s)
	11/198,252	ROBERTS ET AL.
	Examiner	Art Unit
	MICHAEL SUN	2184

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

1. ☒ The amendment filed on *02 August 2011* under 37 CFR 1.312 has been considered, and has been:

   a) ☒ entered.

   b) ☐ entered as directed to matters of form not affecting the scope of the invention.

   c) ☐ disapproved because the amendment was filed after the payment of the issue fee.
   Any amendment filed after the date the issue fee is paid must be accompanied by a petition under 37 CFR 1.313(c)(1) and the required fee to withdraw the application from issue.

   d) ☐ disapproved. See explanation below.

   e) ☐ entered in part. See explanation below.

/Henry Tsai/ SPE, Art Unit 2184	/M. S./ Examiner, Art Unit 2184

UNITED STATES PATENT AND TRADEMARK OFFICE

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JUN 03 2011

OFFICE OF PETITIONS

In re Application of	:	
MAPP et al.	:	
Application No. 11/198,260	:	DECISION ON PETITION
Filed: August 5, 2005	:	UNDER 37 CFR 1.55(c)
Attorney Docket No. MARSP0125USB	:	

This is a decision on the petition under 37 CFR 1.55(c), filed April 26, 2011, to accept an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for benefit of priority to the filing date of foreign United Kingdom Application No. 9910280.8, filed May 4, 1999.

The petition is **DISMISSED**.

This application was filed after November 29, 2000, and did not include a reference to the foreign application, for which benefit is now sought, within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior foreign application. Since the claim for priority is submitted after the period specified in 37 CFR 1.55(a)(1)(i), this is an appropriate petition under the provisions of 37 CFR 1.55(c).

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;
(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date, **and be included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6))**;
(3) the surcharge as set forth in 37 CFR 1.17(t);

(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional (the Director may require additional information where there is a question whether the delay was unintentional); and

(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

The petition fails to comply with item (2) above. In this regard, a review of the file record fails to disclose that the priority information was included in an oath or declaration or in an Application Data Sheet (ADS) in accordance with 37 CFR 1.76(b)(6). Unless provided in an ADS, 37 CFR 1.63(c)(2) requires that the oath or declaration must identify the foreign application for patent (or inventor's certificate) for which priority is claimed under 37 CFR 1.55, and any foreign application having a filing date before that of the application on which priority is claimed, by specifying the application number, country, day, month, and year of its filing. *Note* MPEP 201.14.

In regards to item (4), 37 CFR § 1.55(c) requires a statement that the entire delay between the date the claim was due under 37 CFR § 1.55(a)(1) and the date the claim was filed was unintentional. Since the statement appearing in the petition varies from the required language, the statement is being construed as the statement required by 37 CFR §1.55(c). If this is not a correct reading of the statement appearing in the petition, petitioner should promptly notify the Office.

Further, petitioner should clarify that the reference statement refers to "this application". The statement that "this patent arises from" causes confusing as to whether priority is being claimed.

In view of the above, compliance with 37 CFR 1.63(c)(2) or 37 CFR 1.76(b)(6) must be satisfied if applicant desires to claim priority to the foreign application noted in the petition. Any future petition should include a cover letter and be entitled "Renewed Petition under 37 CFR 1.55(c)."

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Jose' G Dees at (571) 272-1569.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

AT&T Legal Department - HFZ (II)
Attn: Patent Docketing
Room 2A-207
One AT&T Way
Bedminster NJ 07921

MAILED

SEP 15 2011

OFFICE OF PETITIONS

In re Application of	:	
MAPP et al.	:	
Application No. 11/198,260	:	DECISION ON PETITION
Filed: August 5, 2005	:	UNDER 37 CFR 1.55(c)
Attorney Docket No.: MARSP0125USB	:	

This is a decision on the renewed petition under 37 CFR 1.55(c), filed August 2, 2011, to accept an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for the benefit of a prior-filed foreign application, as set forth in the concurrently filed amendment and Application Data Sheet, respectively.

The petition is **GRANTED**.

This pending nonprovisional application was filed after November 29, 2000, and did not include a reference to the foreign application, for which benefit is now sought, within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior foreign application. Since the claim for priority is submitted after the period specified in 37 CFR 1.55(a)(1)(i), this is an appropriate petition under the provisions of 37 CFR 1.55(c).

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;

(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date and be included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6);

(3) the surcharge as set forth in 37 CFR 1.17(t);

(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional (the Director may require additional information where there is a question whether the delay was unintentional); and

(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

This application was filed as a divisional of US Patent Application 09/980,539 which is the US National Stage of International Application No. PCT/GB00/01691 filed on May 3, 2000, which is within 12 months of May 4, 1999 (the filing date of the foreign application to which benefit is now being claimed). On August 2, 2011, an executed Application Data Sheet was received which identifies the foreign application for which priority is claimed by application number, country and filing date. The required petition fee of $1410.00 was received with the petition dated April 26, 2011. Lastly, petitioner has provided an adequate statement of unintentional delay

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 119(a)-(d) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.55(c) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 119(a)-(d) and 37 CFR 1.55(a)(1) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether this application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed foreign application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Jose' G Dees at (571) 272-1569. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being referred to Technology Center AU 2445 for examination in due course and for consideration by the examiner of record of the foreign priority claim under 35 U.S.C. § 119(a)-(d).

David Bucci
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/198,260	08/05/2005	2445	1000	MARSP0125USB	12	1

CONFIRMATION NO. 8592

CORRECTED FILING RECEIPT

38973
AT&T Legal Department - HFZ (II)
Attn: Patent Docketing
Room 2A-207
One AT&T Way
Bedminster, NJ 07921

Date Mailed: 09/16/2011

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Glenford Ezra Mapp, Cambridge, UNITED KINGDOM;
Stephen John Hodges, London, UNITED KINGDOM;
Derek Edward Roberts, Cambridge, UNITED KINGDOM;
Steven Leslie Pope, Cambridge, UNITED KINGDOM;

Assignment For Published Patent Application

AT&T Laboratories-Cambridge Ltd.

Power of Attorney:

Neil DuChez--26725
Mark Saralino--34243

Domestic Priority data as claimed by applicant

This application is a DIV of 09/980,539 05/13/2002 ABN *
which is a 371 of PCT/GB00/01691 05/03/2000
(*)Data provided by applicant is not consistent with PTO records.

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 9910280.8 05/04/1999

If Required, Foreign Filing License Granted: 08/26/2005
The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/198,260**
Projected Publication Date: Not Applicable
Non-Publication Request: No

Early Publication Request: No
Title

Data transfer, synchronising applications, and low latency networks

Preliminary Class

709

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where

the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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FEB 09 2012

OFFICE OF PETITIONS

DEPARTMENT OF THE NAVY
OFFICE OF COUNSEL
SUITE 103
3824 STRAUSS AVE.
INDIAN HEAD, MD 20640-5152

In re Patent No. 7,194,889 :
Issue Date: March 27, 2007 :
Application No.: 11/198,410 : ON PETITION
Filed: August 4, 2005 :
Attorney Docket No.: 96,543 :

This is a decision on the petition under 37 CFR 1.378(c), filed December 23, 2011, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on March 27, 2011 for failure to pay the first maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The 3 ½ year maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3204.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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DEPARTMENT OF THE AIR FORCE
AFMC LO/JAZ
BLDG 11, ROOM D18
WRIGHT-PATTERSON AFB, OH 45433-7109

MAILED

DEC 15 2010

OFFICE OF PETITIONS

In re Application of :
Stanley et al. :
Application No. 11/198,412 : DECISION ON PETITION
Filed: August 5, 2005 :
Attorney Docket No. AFB00718 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 12, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely submit the issue fee, as required by the Notice of Allowance and Fee (s) Due, and submit a substitute declaration, as required by the Notice of Allowability both of which were mailed April 7, 2010. The Notice of Allowance and Issue Fee Due set a three-month period for reply. The Notice of Allowability set a three (3) month period for reply. Extensions of time were not available under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on July 8, 2010. A Notice of Abandonment was mailed on July 29, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the $1510 issue fee and substitute declaration, (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). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

The change of address has been entered and made of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3215.

This application is being referred to the Office of Data Management for further processing.

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

JONES DAY
222 E. 41ST. STREET
NEW YORK NY 10017

MAILED
JUL 25 2011
OFFICE OF PETITIONS

In re Patent No. 7,700,770 :
Ionescu, et al. :
Issued: April 20, 2010 :
Application No. 11/198,550 : ON PETITION
Filed: August 5, 2005 :
Attorney Docket No.: 9516-799-999 (CAM 501872 :

This is a decision on the "Petition to under 37 CFR 1.182 to Request Replacement of Terminal Disclaimer Together with Fee under 37 CFR 1.17(f)" filed April 5, 2011.

The petition is **dismissed**[1].

Petitioner requests that the terminal disclaimer filed November 12, 2008, be replaced with the terminal disclaimer filed April 5, 2011, because the terminal disclaimer filed November 12, 2008, incorrectly cites the assignees as Celegene Corporation and Ash Stevens, Inc. as owners of 100 percent interest in U.S. Patent No. 6,943,249. Petitioner states that U.S. Patent No. 6,943,249 was co-owned by Pharmion LLC and Ash Stevens, Inc. as of November 12, 2008, and at the time the patent issued.

It is noted that Section 1490(VII) (B) of the Manual of Patent Examining Procedure (MPEP) states, in pertinent part, that:

> The mechanisms to correct a patent — Certificate of Correction (35 U.S.C. 255), reissue (35 U.S.C. 251), and reexamination (35 U.S.C. 305) — are not available to withdraw or otherwise nullify the effect of a recorded terminal disclaimer. As a general principle, public policy does not favor the restoration to the patent owner of something that has been freely dedicated to the public, particularly where the public interest is not protected in some manner — e.g., intervening rights in the case of a reissue patent. See, e.g., Altoona Publix Theatres v. American Tri-Ergon Corp., 294 U.S. 477, 24 USPQ 308 (1935).
>
> ...
> Where a terminal disclaimer was submitted to overcome a nonstatutory double patenting rejection (made during prosecution of an application which has now issued as a patent), and the numbers for the patent being disclaimed in the terminal disclaimer were inadvertently transposed (e.g., 6,444,316 written as 6,444,136), a petition under 37 CFR 1.182 may be filed to withdraw the terminal disclaimer with the incorrect (transposed) patent number (recorded in the issued patent), and replace it with a corrected terminal disclaimer having the correct patent number. In this instance, the inadvertency is clear from the record. If the transposing error resulted in an earlier patent

[1] This decision was reached after consultation with the supervisory staff of the Office of Petitions.

> term expiration date than provided by the corrected terminal disclaimer, a statement must be included in the corrected terminal disclaimer to retain that earlier expiration date. The absence of such a statement will result in the Office declining to exercise its discretion to grant relief.

Based on the above-cited section of the MPEP, it is not appropriate to grant the instant petition because petitioner does not assert that the numbers for the patent being disclaimed in the terminal disclaimer were inadvertently transposed. Relative to a terminal disclaimer contained in an issued patent, a petition under 37 CFR 1.182 is only appropriate when the terminal disclaimer in question was submitted to overcome a nonstatutory double patenting rejection and the numbers for the patent being disclaimed in the terminal disclaimer were inadvertently transposed. Such is not the case in this instance. It is, therefore, not appropriate to grant the requested relief pursuant to 37 CFR 1.182. The petition is dismissed, accordingly.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JONES DAY
222 E. 41ST. STREET
NEW YORK NY 10017

MAILED
JUL 25 2011
OFFICE OF PETITIONS

In re Patent No. 7,700,770 :
Issue Date: April 20, 2010 :
Application No. 11/198,550 : ON PETITION
Filed: August 5, 2005 :
Attorney Docket No. 9516-799-999 (CAM 501872 :

This is a decision on the petition filed March 23, 2011, to waive the rules and accept the correction of the assignees on the front page of the above-identified patent.

The petition is **dismissed**.

Petitioner requests issuance of a certificate of correction to reflect the name of the assignees for the above-cited patent as "Pharmion LLC" and "Ash Stevens, Inc". 37 CFR 3.81(a) permits the patent to issue to the assignees, provided that, at the time the issue fee is paid, the name of an assignee is provided. 37 CFR 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***. Patent and Trademark Office assignment records disclose that an assignment to Celegene Corporation from Pharmion Corporation was recorded on November 10, 2008. Further, a merger document was recorded on November 7, 2008, between Pharmion Execution and Celegene Corporation in which the surviving entity was Pharmion, LLC. A corrective assignment was recorded July 27, 2010, between Pharmion Corporation and Pharmion, LLC. The record does not demonstrate that an assignment document to Pharmion LLC was recorded prior to issuance of the patent. Neither do Office records indicate that an assignment to Ash Steven Inc. was recorded prior to the issuance of the patent. Accordingly, since the assignments were not submitted for recordation until after issuance of this patent, issuance of a certificate of correction would not be proper. See MPEP Section 307.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222,

/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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BLAKELY SOKOLOFF
TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE CA 94085-4040

MAILED

AUG 01 2011

OFFICE OF PETITIONS

In re Patent No. 7,167,117 :
Issue Date: 23 January, 2007 :
Application No. 11/198,597 : ON PETITION
Filed: 4 August, 2005 :
Attorney Docket No. 51876P912 :

This is a decision on the petition filed on 28 June, 2011, pursuant to 37 C.F.R. §1.183 and §3.81(b) to correct, *inter alia*, the name of the assignee on the front page of the above-identified patent by way of a certificate of correction under 37 C.F.R. §1.323.

The request is **GRANTED**— upon the instant showing of the recordation of the assignment on 10 July, 2006, and the location of recordation as Reel/Frame 018051/0131.

Petitioner requests issuance of a certificate of correction the identification of the Assignees to "**HMAGNACHIP SEMICONDUCTOR, LTD, (Chungcheongbuk-Do (KR)**" of the substance/form of that submitted therewith.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 C.F.R. §3.81(b) and directing issuance of the requested Certificate of Correction.

Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

Patent No. 7,167,117
Application No. 11/198,597

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[1]) regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

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[1] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing.The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation,or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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Paper No.

MAILED
OCT 21 2011
OFFICE OF PETITIONS

UNITED STATES DEPARTMENT OF ENERGY
1000 INDEPENDENCE AVENUE, S.W.
ATTN: GC-62 (CHI), MS 6F-067
WASHINGTON DC 20585-0162

In re Application of	:	
Payne et al.	:	
Application No. 11/198,676	:	DECISION ON PETITION
Filed: August 5, 2005	:	PURSUANT TO
Attorney Docket No.: S-102683	:	37 C.F.R. § 1.137(B)
Title: MANGANITE PEROVSKITE CERAMICS, THEIR PRECURSORS AND METHODS FOR FORMING	:	

This is a decision on the petition pursuant to 37 C.F.R. § 1.137(b), filed August 25, 2011, to revive the above-identified application.

This petition pursuant to 37 C.F.R. § 1.137(b) is **DISMISSED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R § 1.113 in a timely manner to the final Office action mailed October 14, 2010, which set a shortened statutory period for reply of three months. No extensions of time under the provisions of 37 C.F.R § 1.136(a) were obtained, and no response was received. Accordingly, the above-identified application became abandoned on January 15, 2011. A notice of abandonment was mailed on May 24, 2011.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office

action or notice, unless previously filed;
(2) The petition fee as set forth in 37 C.F.R. § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

With this petition, Applicant has submitted the petition fee, an amendment, and the proper statement of unintentional delay.

The second and third requirements of Rule 1.137(b) have been satisfied. The fourth requirement of Rule 1.137(b) is not applicable, as a terminal disclaimer is not required.[1]

The present petition is not grantable because the first requirement of Rule 1.137(b) has not been satisfied. 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(b)(1) (*i.e.*, a Notice of Appeal (and fee required by law); an amendment that *prima facie* places the application in condition for allowance; a continuing application under 37 C.F.R. § 1.53(b); a request for continuing examination under 37 C.F.R. § 1.114, if applicable; or a 37 C.F.R. § 1.129(a) submission, if applicable). The amendment that was submitted concurrently with this petition has been considered by the Examiner, and it has been determined that it fails to place the application in condition for allowance for the reason(s) set forth in the attached Advisory Action.

Any response to this decision 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.

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1 See Rule 1.137(d).
2 See M.P.E.P. § 711.03(c).

Any future submission concerning this matter 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 regarding *this decision* should be directed to the undersigned at (571) 272-3225.[7] All other inquiries concerning examination procedures should be directed to the Technology Center.

Paul Shanoski
Senior Attorney
Office of Petitions

Encl. Advisory Action

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 Petitioner's further action(s).

Advisory Action Before the Filing of an Appeal Brief	Application No. 11/198,676	Applicant(s) PAYNE ET AL.	
	Examiner ROBERT VETERE	Art Unit 1712	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 25 August 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, 3-17, 64-67*.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/Robert Vetere/
Examiner, Art Unit 1712

Continuation of 11. does NOT place the application in condition for allowance because: The filing of a Rule 132 affadavit after final presents new issues for further search and consideration, Accordingly, it has not been entered at this time.

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

UNITED STATES DEPARTMENT OF ENERGY
1000 INDEPENDENCE AVENUE, S.W.
ATTN: GC-62 (CHI), MS 6F-067
WASHINGTON DC 20585-0162

MAILED
MAR 08 2012
OFFICE OF PETITIONS

In re Application of	:	
Payne et al.	:	
Application No. 11/198,676	:	DECISION ON RENEWED
Filed: August 5, 2005	:	PETITION PURSUANT TO
Attorney Docket No.: S-102683	:	37 C.F.R. § 1.137(B)
Title: MANGANITE PEROVSKITE CERAMICS, THEIR PRECURSORS AND METHODS FOR FORMING	:	

This is a decision on the renewed petition pursuant to 37 C.F.R. § 1.137(b), filed January 23, 2012, to revive the above-identified application.

This renewed petition pursuant to 37 C.F.R. § 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R § 1.113 in a timely manner to the final Office action mailed October 14, 2010, which set a shortened statutory period for reply of three months. No extensions of time under the provisions of 37 C.F.R § 1.136(a) were obtained, and no response was received. Accordingly, the above-identified application became abandoned on January 15, 2011. A notice of abandonment was mailed on May 24, 2011.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in 37 C.F.R.

§ 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

An original petition pursuant to 37 C.F.R. § 1.137(b) was filed on August 25, 2011, along with the petition fee, an amendment, and the proper statement of unintentional delay.

The original petition pursuant to 37 C.F.R. § 1.137(b) was dismissed via the mailing of a decision on October 21, 2011, which indicated the second and third requirements of Rule 1.137(b) have been satisfied, and 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 a Request for Continued Examination (RCE) along with the associated fee, an amendment, a Rule 1.132 declaration, and the proper statement of unintentional delay. Petitioner has further included a one-month extension of time, so as to make timely this response.[2]

The amendment and the Rule 1.132 declaration of January 23, 2011 have been accepted as the required reply under 37 C.F.R. § 1.137(b)(1). As such, the first three requirements of Rule 1.137(b) have been met. The fourth requirement of Rule 1.137(b) is not applicable, as a terminal disclaimer is not required.

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the submission under 37 C.F.R. § 1.114 - the amendment and the Rule 1.132 declaration that were each submitted on January 23, 2011 - can be processed in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the revival has been acknowledged by the Technology Center in response to this

1 See Rule 1.137(d).
2 It is noted that January 21, 2012 fell on a Saturday.

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. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski
Senior 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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Zilka-Kotab, PC
P.O. Box 721120
San Jose, CA 95172-1120

MAILED

APR 11 2011

OFFICE OF PETITIONS

In re Application of	:	
William Cheng, et al.	:	
Application No. 11/198,726	:	DECISION ON PETITION
Filed: August 4, 2005	:	TO WITHDRAW
Attorney Docket No. NAI1P170G/96.007.13	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 24, 2011.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to Zilka-Kotab, PC has been revoked by the assignee of the patent application on March 28, 2011. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Terri Johnson at 571-272-2991.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

cc: **McAfee-Wong Cabello Lutsch Rutherford & Brucculeri LLP**
20333 Tomball Parkway, 6th Floor
Houston TX 77070

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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MARGARET ANDERSON
106 E. 6TH STREET, SUITE 900
AUSTIN TX 78701

MAILED

MAR 02 2011

OFFICE OF PETITIONS

In re Application of	:	
Jung et al.	:	DECISION ON PETITION
Application No. 11/198,904	:	TO WITHDRAW
Filed: August 5, 2005	:	FROM RECORD
Attorney Docket No. QQ1-0037US	:	

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 24, 2011.

The request is **NOT APPROVED**.

The Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest *who properly became of record under 37 CFR 3.71,* or, if no assignee of the entire interest has properly been made of record, the most current address information provided for the first named inventor. 37 CFR 3.71(c) states:

An assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement in compliance with § 3.73(b) that is signed by a party who is authorized to act on behalf of the assignee.

According to a review of current USPTO records petitioner has not requested the address be changed to a properly recorded assignee or the first listed inventor. The Customer Number 55922 is neither the first named inventor nor the assignee who properly became of record under 37 CFR 3.71 As such, all future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Further, the address given on the petition differs from the address of record. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Currently, a Notice of Appeal was filed February 18, 2011.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-7751.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Lewis C. Lee
601 W Riverside, Suite 1400
Spokane, WA 99201

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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Paper No.

THE INVENTION SCIENCE FUND
CLARENCE T. TEGREENE
11235 SE 6TH STREET
SUITE 200
BELLEVUE WA 98004

MAILED

OCT 2 1 2010

OFFICE OF PETITIONS

In re Patent No. 7668069	:	DECISION ON REQUEST
Ferren et al.	:	FOR
Issue Date: 02/23/2010	:	RECONSIDERATION OF
Application No. 11/198938	:	PATENT TERM ADJUSTMENT
Filed: 08/05/2005	:	and
Atty Docket No.	:	NOTICE OF INTENT TO ISSUE
1103-006-009B-000000	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on June 16, 2010, which is being treated as a request for reconsideration under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted, by one thousand eighty-one (1081) days. For the reasons stated below, the petition is treated as a petition requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted, by one thousand twenty-four (1024) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand twenty-four (1024) days is **GRANTED to the extent indicated herein.**

As to the "B" delay, the period is the period beginning on August 6, 2008, the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) and ending on February 23, 2010, the date the application issued as a patent, or 567 days. Any time consumed by appellate review, however, is not included in the calculation of 37 CFR 1.702(b). See 35 U.S.C. 154(b)(1)(B)(ii). On August 13, 2009, 2009, a notice of appeal was filed. On October 8, 2009, 180

days after the date the notice of appeal was filed, a notice of allowance was mailed. Accordingly, the excluded period for appeal is 57 days, and the "B" delay period is 510 (567 - 57) days.

The patent term adjustment at the time of issuance of the patent is 1024 (664 days of Office delay + 510 days of over three years delay - 150 days of applicant delay) days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136. See 37 CFR 1.323(a)(4).

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by one thousand twenty-four **(1024)** 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 : 7,668,069 B2

DATED : **Feb. 23, 2010** **DRAFT**

INVENTOR(S) : Ferren et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 514 days.

Delete the phrase "by 514 days" and insert – by 1024 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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TROUTMAN SANDERS, LLP
5200 BANK OF AMERICA PLAZA
600 PEACHTREE STREET N.E., SUITE 5200
ATLANTA, GA 30308-2216

MAILED

AUG 02 2010

OFFICE OF PETITIONS

In re Application of :
Frances R. WILLIAMS, et *al.* :
Application No. 11/199,102 : DECISION ON PETITION
Filed: August 8, 2005 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. **GTRC3215** :

This is a decision on the petition under 37 CFR § 1.78(a)(6), filed May 21, 2010, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for benefit of priority to the prior-filed provisional application set forth in the concurrently filed amendment.

The petition is **DISMISSED AS MOOT**.

The petition is accompanied by an amendment to the first sentence of the specification following the title to include a reference to the prior-filed provisional application. While a reference to the prior-filed provisional application was not included in an Application Data Sheet (ADS) or in the first sentence of the specification following the title as required by the rules, a reference, nevertheless, was made in the transmittal letter filed with the application.

Where a claim for priority under 37 CFR § 1.78(a)(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)(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)(6).[1] In the present case, the Office noted the claim

[1] *Note* MPEP 201.11 (III)(D) and 66 Federal Register 67087 at 67089 (Dec. 28, 2001), effective December 28, 2001.

for priority to the prior-filed provisional applications in the transmittal letter filed with the application; as shown by their inclusion on the filing receipt.

There is no indication that the petition is signed by a patent attorney or patent agent of record. However, in accordance with 37 CFR 1.34, the signature of Mr. Kenneth W. Float appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. If, Mr. Float desires to receive correspondence regarding this file, the appropriate power of attorney documents must be submitted. A courtesy copy of this decision is being mailed to Mr. Float, the petitioner herein. However, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

Any questions concerning this decision on petition may be directed to Monica A. Graves at (571) 272-7253. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being referred to Technology Center AU 2856 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 119(e) to the prior-filed applications.

Thurman K. Page
Petitions Examiner
Office of Petitions

cc: **KENNETH W. FLOAT**
THE LAW OFFICES OF KENNETH W. FLOAT
2095 HWY. 211 NW, SUITE 2F
BRASELTON, GA 30517

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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www.uspto.gov

KLEIN, O''NEILL & SINGH, LLP
18200 VON KARMAN AVENUE
SUITE 725
IRVINE CA 92612

MAILED

AUG 02 2010

OFFICE OF PETITIONS

In re Application of :
Maurice Keschamps, et al. :
Application No. 11/199,172 : ON PETITION
Filed: August 9, 2005 :
Attorney Docket No. 1103-006.101 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 21, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of October 14, 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 January 15, 2009. The Notice of Abandonment was mailed May 1, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of 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) 272-2991.

This application is being referred to Technology Center AU 3745 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Terri Johnson
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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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

MAY 23 2011

OFFICE OF PETITIONS

In re Application of :

SIMPSON, John B. :
Application No. 11/199,370 : DECISION ON PETITION
Filed: August 09, 2005 : TO WITHDRAW
Attorney Docket No. **34668-501009US** : 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.**

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

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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One Financial Center
BOSTON MA 02111

MAILED

JUL 18 2011

OFFICE OF PETITIONS

In re Application of	:	
SIMPSON, John B.	:	
Application No. 11/199,370	:	DECISION ON PETITION
Filed: August 09, 2005	:	TO WITHDRAW
Attorney Docket No. **34668-501009US**	:	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 July 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 Fred C. Hernandez on behalf of all attorneys of record who are associated with customer No. 23980. 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 first named inventor John B. Simpson at the address indicated below.

There is an outstanding Office action mailed December 03, 2010 that requires a reply from the 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: **JOHN B. SIMPSON**
3033 CAMPUS DRIVE
PLYMOUTH, MINNESOTA 55441

UNITED STATES PATENT AND TRADEMARK OFFICE

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FITCH, EVEN, TABIN & FLANNERY
P. O. BOX 18415
WASHINGTON DC 20036

MAILED

OCT 24 2011

OFFICE OF PETITIONS

In re Patent No. 7,497,527 :
Issue Date: March 3, 2009 :
Application No. 11/199,381 : ON PETITION
Filed: August 9, 2005 :
Attorney Docket No. 7863-84404 :

This is a decision on the petition under 37 CFR 1.182, filed October 12, 2011, requesting issuance of a duplicate Letters Patent for the above-identified patent.

The petition is **GRANTED**.

The Office of Data Management is directed to issue a duplicate Letters Patent.

Telephone inquiries concerning this decision may be directed to Kimberly Inabinet at (571) 272-4618. Inquiries regarding the issuance of a duplicate Letters Patent may be directed to the Office of Data Management at (571) 272-4200.

The petition fee of $400 will be charged to petitioner's deposit account.

A copy of this decision is being forwarded to the Publishing Division for issuance of duplicate Letters Patent.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

cc: Ollie Person (Fax - 571-270-9764)
Kimberly Terrell (Fax - 571-270-9958)

Doc Code: PET.PTA.RCAL
Document Description: Request for Recalculation in view of Wyeth

PTO/SB/131 (01-10)
Approved for use through 02/28/2011. OMB 0651-0020
U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH**

Attorney Docket Number: TI-38802	Patent Number: 7,669,243
Filing Date (or 371(b) or (f) Date): 08-08-2005	Issue Date: 02/23/2010
First Named Inventor: Gregory R. Conti	
Title: METHOD AND SYSTEM FOR DETECTION AND NEUTRALIZATION OF BUFFER OVERFLOW ATTACKS	

PATENTEE HEREBY REQUESTS RECALCULATION OF THE PATENT TERM ADJUSTMENT (PTA) UNDER 35 USC 154(b) INDICATED ON THE ABOVE-IDENTIFIED PATENT. THE PATENTEE'S SOLE BASIS FOR REQUESTING THE RECALCULATION IS THE USPTO'S PRE-*WYETH* INTERPRETATION OF 35 U.S.C. 154(b)(2)(A).

Note: This form is only for requesting a recalculation of PTA for patents issued before March 2, 2010, if the sole basis for requesting the recalculation is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A). See Instruction Sheet on page 2 for more information.

Patentees are reminded that to preserve the right to review in the United States District Court for the District of Columbia of the USPTO's patent term adjustment determination, a patentee must ensure that he or she also takes the steps required under 35 U.S.C. 154(b)(3) and (b)(4) and 37 CFR 1.705 in a timely manner.

**Wyeth v. Kappos*, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).

Signature / Wade J. Brady III /	Date August 12, 2010
Name (Print/Typed) Wade J. Brady III	Registration Number 32,080

Note: *Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required in accordance with 37 CFR 1.33 and 11.18. Please see 37 CFR 1.4(d) for the form of the signature. If necessary, submit multiple forms for more than one signature, see below**.

☑ *Total of 1 forms are submitted.

The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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United States Patent and Trademark Office
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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS, TX 75265

Mail Date: 09/07/2010

Applicant	: Gregory R. Conti	: DECISION ON REQUEST FOR
Patent Number	: 7669243	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/199,427	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/08/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1115** 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

OBLON, SPIVAK, MCCLELLAND
MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA VA 22314

In re Application of	:	
Ishibashi et al.	:	
Patent Number: 7,465,731	:	DECISION ON
Issue Date: 12/16/2008	:	APPLICATION FOR
Application No. 11/199453	:	PATENT TERM ADJUSTMENT
Filing or 371(c) Date: 08/09/2005	:	and
Attorney Docket No.	:	NOTICE OF INTENT TO ISSUE
276656US0	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on January 16, 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 (500) 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 five hundred (500) 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 **five hundred (500) 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 : 7,465,731 B2

DATED : **December 16, 2008**

INVENTOR(S) : Ishibashi et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 371 days.

Delete the phrase "by 371 days" and insert – by 500 days--

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Cummins-Allison Corp.
c/o Nixon Peabody LLP
399 S. Riverside Plaza
16th Floor
Chicago, IL 60606

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SEP 10 2010

OFFICE OF PETITIONS

In re Patent No. 7,599,543 :
Jones et al. : DECISION UPON REMAND AND
Issue Date: October 6, 2009 : RECONSIDERATION OF
Application No. 11/199,511 : PATENT TERM ADJUSTMENT
Filed: August 8, 2005 : AND NOTICE OF INTENT
Attorney Docket No. 247171-000298USD3 : TO ISSUE CERTIFICATE OF CORRECTION
Title: Document Processing System Using Full Image Scanning :

This is a decision following remand from the District Court for the District of Columbia regarding the patent term adjustment indicated on the above-identified patent. The Court remanded this matter to the U.S. Patent and Trademark Office for recalculation of the patent term adjustment in accordance with the decision in Wyeth & Elan Pharma Int'l Ltd. v. Kappos, 591 F.3d 1364 (Fed. Cir. 2010).

The patent term adjustment indicated on the above-identified patent has been recalculated as directed by the Court. The term of the above-identified patent is extended or adjusted by one thousand and thirty-four (1034) days.

The application is being forwarded to the Certificates Branch for issuance of a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by One thousand and thirty-four (1034) 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 : 7,599,543 B2

DATED : **October 6, 2009** **DRAFT**

INVENTOR(S) : Jones 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 720 days

Delete the phrase "by 720 days" and insert – by 1034 days--

Day : Wednesday

PALM INTRANET

Date: 9/1/2010
Time: 09:04:52

PTA Calculations for Application: 11/199511			
Application Filing Date:	08/08/2005	PTO Delay (PTO):	780
Issue Date of Patent:	10/06/2009	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	60
Post-Issue Petitions:	0	Total PTA (days):	1034
PTO Delay Adjustment:	314		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
66	09/01/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	1		
65	09/01/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	313		
57.5	09/16/2009	PTA 36 MONTHS			
57	10/06/2009	PATENT ISSUE DATE USED IN PTA CALCULATION			
56	08/31/2009	EXPORT TO FINAL DATA CAPTURE			
55	08/28/2009	DISPATCH TO FDC			
54	08/27/2009	APPLICATION IS CONSIDERED READY FOR ISSUE			
53	08/25/2009	ISSUE FEE PAYMENT VERIFIED			
52	08/25/2009	ISSUE FEE PAYMENT RECEIVED			
51	08/07/2009	FINISHED INITIAL DATA CAPTURE			
50	07/09/2009	RECEIPT INTO PUBS			
49	06/29/2009	EXPORT TO INITIAL DATA CAPTURE			
48	06/26/2009	MAIL NOTICE OF ALLOWANCE			
47	06/25/2009	ISSUE REVISION COMPLETED			
46	06/25/2009	DOCUMENT VERIFICATION			
45	06/25/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
44	06/22/2009	NOTICE OF ALLOWABILITY			
42	04/27/2009	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
41	04/27/2009	REFERENCE CAPTURE ON IDS			
40	04/27/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		32	37
39	04/27/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
38	04/08/2009	DATE FORWARDED TO EXAMINER			

37	03/26/2009	RESPONSE AFTER NON-FINAL ACTION		28	35
36	03/26/2009	REQUEST FOR EXTENSION OF TIME - GRANTED			
35	11/26/2008	MAIL NON-FINAL REJECTION	780		-1
34	11/24/2008	NON-FINAL REJECTION			
32	10/17/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
31	08/26/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
30	10/31/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
29	12/17/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
26	12/17/2007	REFERENCE CAPTURE ON IDS			
25	12/17/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
24	12/17/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
23	10/31/2007	REFERENCE CAPTURE ON IDS			
22	10/31/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
21	10/31/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
20	10/17/2007	WITHDRAW FLAGGED FOR 5/25			
19	10/15/2007	FLAGGED FOR 5/25			
18	08/08/2005	PRELIMINARY AMENDMENT			
17	08/26/2005	REFERENCE CAPTURE ON IDS			
16.7	08/26/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
16	08/26/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
15	12/21/2006	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
14	12/21/2006	CASE DOCKETED TO EXAMINER IN GAU			
13	10/17/2005	REFERENCE CAPTURE ON IDS			
12.7	10/17/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
12	10/17/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
11	09/08/2005	APPLICATION RETURN FROM OIPE			
10	09/08/2005	APPLICATION IS NOW COMPLETE			
7	09/08/2005	APPLICATION RETURN TO OIPE			

6	09/08/2005	APPLICATION DISPATCHED FROM OIPE			
5	09/08/2005	APPLICATION IS NOW COMPLETE			
4	09/01/2005	CLEARED BY L&R (LARS)			
3	08/19/2005	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			
2	08/16/2005	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	08/08/2005	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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GREENBERG TRAURIG, LLP
MET LIFE BUILDING
200 PARK AVENUE
NEW YORK NY 10166

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DEC 20 2010

OFFICE OF PETITIONS

In re Application of :

PLATT, Dorit et al. :
Application No. 11/199,584 : DECISION ON PETITION
Filed: August 08, 2005 : TO WITHDRAW
Attorney Docket No. **109118-010400** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 18, 2010.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The 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 Barry Schindler on behalf of all attorneys of record who are associated with customer No. 32361. All attorneys/agents associated with the Customer Number 32361 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.
the Office will be directed to the first named signing inventor or the assignee of the entire interest at the first copied address below until otherwise properly notified by the applicant. There is an outstanding Office action mailed July 08, 2010 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions

cc: **ENZYMOTEC LTD.**
RAMAT GAVRIEL INDUSTRIAL PARK
P. O. BOX 6
MIGDAL HAEMEQ, ISRAEL 23106

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Paper No.

KNOBBE MARTENS
OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

MAILED
JAN 13 2012
OFFICE OF PETITIONS

In re Application of :
Martin Stubbs : DECISION ON PETITION
Application No. 11/199,667 :
Filed: August 9, 2005 :
Atty Docket No. EIP15.001C1 :

This is in response to the Petition to Withdraw Improper Holding of Abandonment Pursuant to 37 C.F.R. § 1.181(a) filed December 27, 2011.

The petition is GRANTED.

The above-identified application became abandoned for failure to file a reply to the Office action mailed June 2, 2011. The non-final Office action set a three (3) month period for reply, with extensions of time obtainable under 37 CFR 1.136(a). No reply considered filed and no extension of time considered obtained, the application became abandoned effective September 3, 2011. A courtesy Notice of Abandonment was mailed on November 10, 2011.

In response, applicant timely filed the instant petition. Applicant submits that the application is not abandoned as the deadline for response had not yet passed at the time that the Notice of Abandonment was issued, and because Applicant filed a timely response based on the correct deadline for response. In support thereof, applicant submits, inter alia, a copy of the response and extension of time as they maintain the documents were timely filed on December 2, 2011.

Applicant is correct. Their response, including a sufficient extension of time and extension fee, is present in the application with a date of receipt of December 2, 2011.

Further, the finance records for this application show that the three-month extension of time received December 2, 2011 was processed and charged to the credit card on December 5, 2011.

Accordingly, the holding of abandonment is hereby **WITHDRAWN**.

The petition under § 1.181 is **GRANTED**.

No fee is required on petition under § 1.181.

Technology Center Art Unit 3621 has been advised of this decision. The application is, thereby, forwarded to the Technology Center support staff to withdraw the holding of abandonment and for consideration by the examiner of the response timely filed December 2, 2011.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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CHOATE, HALL & STEWART / CITRIX SYSTEMS, INC.
TWO INTERNATIONAL PLACE
BOSTON MA 02110

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OFFICE OF PETITIONS

In re Patent No. 7,334,122 :
Issued: 02/19/2008 :
Application No. 11/199,735 : NOTICE
Filed: 08/09/2005 :
Atty Docket No. 2006579-0970 (CTX-350CN :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed September 2, 2011.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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McCarter & English LLP
265 Franklin Street
Boston Ma 02110

MAILED
AUG 26 2011
OFFICE OF PETITIONS

In re Patent No. 7,485,297 :
Wood et al. : DECISION UPON REMAND AND
Issue Date: February 3, 2009 : RECONSIDERATION OF
Application No. 11/199,739 : PATENT TERM ADJUSTMENT
Filed: August 9, 2005 : AND NOTICE OF INTENT
Attorney Docket No. 117811-00105 : TO ISSUE CERTIFICATE OF CORRECTION
Title: Method of Inhibition of Vascular Development Using an Antibody :

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 three hundred and thirty-seven (337) 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 three hundred and eleven (337) 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 : 7,485,297 B2

DATED : **February 3, 2009** **DRAFT**

INVENTOR(S): Wood 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 159 days

Delete the phrase "by 159 days" and insert – by 337 days--

PTA/PTE Information | Patent Term Adjustment | Patent Term Extension

Application Number*: 11199739 Search | Explanation of PTA Calculation | Explanation of PTE Calculation

PTA Calculations for Application: 11199739

Application Filing Date	08/09/2005	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent	02/03/2009	Non-Overlapping USPTO Delays:	259
A Delays	259	PTO Manual Adjustment	178
B Delays	0	Applicant Delay (APPL)	100
C Delays	0	Total PTA (days)	337

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
98	08/22/2011		P028	Adjustment of PTA Calculation by PTO	178		0
85	02/03/2009		PTAC	Patent Issue Date Used in PTA Calculation			0
85.5	01/14/2009	08/09/2008	PTA36M	PTA 36 Months	0		0
84	01/06/2009		EFDC	Export to Final Data Capture			0
83	01/05/2009		D1935	Dispatch to FDC			0
82	12/31/2008		MN271	Mail Response to 312 Amendment (PTO-271)			0
81	12/31/2008		N271	Response to Amendment under Rule 312			0
69	12/24/2008		PILS	Application Is Considered Ready for Issue			0
70	12/17/2008		A.NA	Amendment after Notice of Allowance (Rule 312)		15	82
68	12/17/2008		N084	Issue Fee Payment Verified			0
67	12/17/2008		IFEE	Issue Fee Payment Received			0
66	12/10/2008		FIDC	Finished Initial Data Capture			0
65	10/03/2008		CRFT	Sequence Forwarded to Pubs on Tape			0
62	09/29/2008		R1021	Receipt into Pubs			0
63	09/26/2008		EIDC	Export to Initial Data Capture			0
60	09/17/2008		MN/=.	Mail Notice of Allowance			0
59	09/16/2008		IREV	Issue Revision Completed			0
58	09/16/2008		DVER	Document Verification			0
57	09/15/2008		N/=.	Notice of Allowance Data Verification Completed			0
56	09/15/2008		DOCK	Case Docketed to Examiner in GAU			0
55	09/15/2008		EX.A	Examiner's Amendment Communication			0
54	09/15/2008		CNTA	Allowability Notice			0
52	08/19/2008		PA..	Change in Power of Attorney (May Include Associate POA)			0
51	08/14/2008		C.AD	Correspondence Address Change			0
50	06/30/2008		FWDX	Date Forwarded to Examiner			0
49	06/09/2008		A...	Response after Non-Final Action			0
48	05/10/2008		ELC_RVW	Electronic Review			0
47	05/09/2008		EML_NTF	Email Notification			0
46	05/09/2008		MCTMS	Mail Miscellaneous Communication to Applicant			0
45	05/06/2008		CTMS	Miscellaneous Action with SSP			0
44	05/02/2008		EML_NTR	Email Notification			0
43	05/02/2008		PA..	Change in Power of Attorney (May Include Associate POA)			0
42	04/28/2008		C.AD	Correspondence Address Change			0
41	03/21/2008		FWDX	Date Forwarded to Examiner			0
40	02/20/2008	12/24/2007	A...	Response after Non-Final Action		58	35
39	02/20/2008		XT/G	Request for Extension of Time - Granted			0
53	11/29/2007		IDSC	Information Disclosure Statement considered			0
38	11/29/2007		M844	Information Disclosure Statement (IDS) Filed			0
36	11/29/2007		WIDS	Information Disclosure Statement (IDS) Filed			0
35	09/24/2007		MCTNF	Mail Non-Final Rejection			0
34	09/18/2007		CTNF	Non-Final Rejection			0
31	08/21/2007		IDSC	Information Disclosure Statement considered			0
30	08/21/2007	07/25/2007	M844	Information Disclosure Statement (IDS) Filed		27	27
29	08/21/2007		WIDS	Information Disclosure Statement (IDS) Filed			0
28	07/27/2007		FWDX	Date Forwarded to Examiner			0
27	07/25/2007		ELC.	Response to Election / Restriction Filed			0
26	06/25/2007	10/09/2006	MCTRS	Mail Restriction Requirement	259		-1
25	06/21/2007		CTRS	Restriction/Election Requirement			0
24	04/02/2007		A.PE	Preliminary Amendment			0
22	11/28/2006		DOCK	Case Docketed to Examiner in GAU			0
32	09/25/2006		IDSC	Information Disclosure Statement considered			0
21	09/25/2006		RCAP	Reference capture on IDS			0
20.7	09/25/2006		M844	Information Disclosure Statement (IDS) Filed			0
20	09/25/2006		WIDS	Information Disclosure Statement (IDS) Filed			0
19	08/02/2006		DOCK	Case Docketed to Examiner in GAU			0

18	12/07/2005	TSSCOMP	IFW TSS Processing by Tech Center Complete	0
17	12/07/2005	DOCK	Case Docketed to Examiner in GAU	0
13	12/06/2005	OIPE	Application Dispatched from OIPE	0
12	12/06/2005	COMP	Application Is Now Complete	0
7	11/30/2005	CRFE	CRF Is Good Technically / Entered into Database	0
16	11/21/2005	A.PE	Preliminary Amendment	0
11	11/16/2005	ADDFLFEE	Additional Application Filing Fees	0
9	11/16/2005	SEQLIST	A set of symbols and procedures, provided to the PTO on a set of computer listings, that describe in	0
8	11/16/2005	OATHDECL	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic	0
33	11/10/2005	IDSC	Information Disclosure Statement considered	0
15	11/10/2005	RCAP	Reference capture on IDS	0
14.7	11/10/2005	M844	Information Disclosure Statement (IDS) Filed	0
14	11/10/2005	WIDS	Information Disclosure Statement (IDS) Filed	0
6	09/22/2005	INCD	Notice Mailed--Application Incomplete--Filing Date Assigned	0
5	09/15/2005	L128	Cleared by L&R (LARS)	0
4	08/23/2005	L198	Referred to Level 2 (LARS) by OIPE CSR	0
3	08/23/2005	CLSS	CASE CLASSIFIED BY OIPE	0
2	08/19/2005	SCAN	IFW Scan & PACR Auto Security Review	0
10	08/09/2005	CLAIM	Claim Preliminary Amendment	0
1	08/09/2005	IEXX	Initial Exam Team nn	0

Export to: Excel

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SALIWANCHIK, LLOYD & EISENSCHENK
A PROFESSIONAL ASSOCIATION
PO Box 142950
GAINESVILLE, FL 32614

MAILED
SEP 30 2011
OFFICE OF PETITIONS

In re Application of
Thomas E. Tynes, et al.
Application No. 11/199,768
Filed: August 8, 2005
Attorney Docket No.: MRI.140XC1

ON PETITION

This is a decision in response to the petition, filed September 21, 2011, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is not signed by a registered practitioner of record. However, in accordance with 37 CFR 1.34(a), the signature of Thomas M. Lundin 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. If Mr. Lundin desires to receive correspondence regarding this file, the appropriate power of attorney documents must be submitted. A courtesy copy of this decision is being mailed to the petitioner; however, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

The petition is **GRANTED**.

The application was held abandoned for a failure to reply in a timely manner to a non-final Office action mailed March 29, 2010, which set a shortened statutory period for reply of three (3) months. A Notice of Abandonment was mailed on October 21, 2010. On September 21, 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 amendment; (2) the petition fee of $1,620; and (3) an adequate statement of unintentional delay[1].

The application is being referred to Technology Center AU 3777 for appropriate action by the Examiner in the normal course of business on the reply received September 21, 2011.

[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 or agent 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.

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

cc: THOMAS M. LUNDIN
595 MINER ROAD
CLEVELAND, OH 44143

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE: November 18, 2011

TO SPE OF: ART UNIT 2173

SUBJECT: Request for Certificate of Correction for Appl. No.: 11/899,897 Patent No.: 7954057

CofC mailroom date: 10-31-11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Note: Reconsideration

Magdalene Talley
Certificates of Correction Branch
571-272-0423

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box

- ☑ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

/Kieu Vu/ — **SPE**

2173 — **Art Unit**

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THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP
600 GALLERIA PARKWAY, S.E.
STE 1500
ATLANTA GA 30339-5994

MAILED

OCT 06 2010

OFFICE OF PETITIONS

In re Patent No. 7,688,338 :
Issued: March 30, 2010 :
Application No. 11/199,944 : ON PETITION
Filed: August 8, 2005 :
Attorney Docket No. 251715-1060 :

This is a decision on the petition under 37 CFR 1.182, filed August 1, 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.

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)

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Thomas, Kayden, Horstemeyer & Risley, LLP
600 Galleria Parkway, S.E.
Ste 1500
Atlanta, GA 30339-5994

MAILED

OCT 01 2010

OFFICE OF PETITIONS

In re Patent No. 7,684,638 :
Issue Date: March 23, 2010 :
Application No. 11/199,952 : DECISION ON PETITION
Filed: August 8, 2005 :
Attorney Docket No. 251715-1080 :

This is a decision on the petition under 37 CFR 1.182, filed August 1, 2010, requesting issuance of duplicate Letters Patent for the above-identified patent.

The petition is **GRANTED**.

The Office of Data Management is directed to issue duplicate Letters Patent.

As authorized, the $400 fee for the petition under 37 CFR 1.182 has been assessed to petitioner's deposit account.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3226. Inquiries regarding the issuance of duplicate Letters Patent may be directed to Ollie Person in the Office of Data Management at (703) 756-1555.

A copy of this decision is being sent to Office of Data Management for issuance of duplicate Letters Patent.

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Ollie Person, Randolph Square, 9th Floor, Room D30-A (Fax No. (571) 270-9764)
Kimberly Terrell – Fax No. (571) 270-9958

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Medtronic, Inc. (Spinal/Haynes Boone)
710 Medtronic Parkway
Attn: Legal Patents MS: LC340
Minneapolis MN 55432-5604

MAILED
SEP 07 2011
OFFICE OF PETITIONS

In re Application of :
Nguyen, et al. :
Application No. 11/200,144 : DECISION ON PETITION
Filed: August 10, 2005 :
Attorney Docket No. PC0001111.08 :

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 submit corrected drawings in a timely manner in reply to the Notice of Allowability, mailed April 29, 2011, which set a period for reply of three (3) months. Accordingly, this application became abandoned on July 30, 2011. A Notice of Abandonment was mailed on August 16, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioners have supplied (1) the reply in the form of corrected drawings, (2) the petition fee of $1,620.00, and (3) an acceptable statement of unintentional delay.

The statement of unintentional delay was not signed by a person who would have been in a position of knowing that the delay in filing a timely response was unintentional. In the event that practitioner has no knowledge that the delay was in fact unintentional, practitioner should make a reasonable inquiry to ascertain that, in fact, the delay was unintentional. If practitioner discovers that the delay was intentional, practitioner must so 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 documents must be submitted. While a courtesy copy of this decision is being mailed to the person signing the

petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

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 consideration of the drawings filed on August 17, 2011.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

CC: MICHAEL J. MUSELLA
DILWORTH & BARRESE, LLP
1000 WOODBURY RD., STE. 405
WOODBURY, NY 11797

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JAN 2 1 2011

OFFICE OF PETITIONS

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

In re Application of :
Young-Min Park :
Application No. 11/200,152 : ON PETITION
Filed: August 10, 2005 :
Attorney Docket No.: Q89249 :

This is a decision on the petition under 37 CFR 1.137(b), filed November 12, 2010, to revive the above-identified application.

The petition 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 March 8, 2010. A Notice of Abandonment was mailed on September 21, 2010. In response, on November 12, 2010, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) under 37 CFR 1.114 and fee of $810, (2) the petition fee of $1,620, and (3) an adequate statement of unintentional delay.

This application is being referred to Technology Center AU 2114 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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Gigamax Technologies, Inc.
6550 Edenvale Blvd.
Eden Prairie, MN 55346

MAILED

AUG 30 2010

OFFICE OF PETITIONS

In re Application of	:	
John David Hamre, et al.	:	
Application No. 11/200,258	:	DECISION ON PETITION
Filed: August 9, 2005	:	
Attorney Docket No. 0030US01	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 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 Restriction Requirement, mailed August 7, 2008, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on September 8, 2008. The Notice of Abandonment was mailed March 3, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an election, (2) the petition fee of $810, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Terri Johnson at (571) 272-2991.

This application is being referred to Technology Center AU 2611 for appropriate action by the Examiner in the normal course of business on the reply received.

Terri Johnson
Petitions Examiner
Office of Petitions

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Nixon Peabody LLP
P.O. Box 60610
Palo Alto CA 94306

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AUG 31 2010

OFFICE OF PETITIONS

In re Patent No. 7,657,435 :
Issue Date: February 2, 2010 :
Application No. 11/200,288 : DECISION ON PETITION
Filed: August 8, 2005 :
Attorney Docket No. 434620-140 :

This is a decision on the Request To Correct Patent To State Name Of Assignee filed June 21, 2010, which is being treated as a petition under 37 CFR 3.81(b) to correct the name of the assignee on the front page of the above-identified patent by way of a certificate of correction.

The petition is **DISMISSED**.

Petitioner requests issuance of a certificate of correction in the name of "Nippon Telegraph and Telephone Corporation."

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 **before issuance of the patent**, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter [emphasis added]. *See also* MPEP 1481.01.

U.S. Patent and Trademark Office assignment records disclose that the re-record assignment "*Nippon Telegraph and Telephone Corporation*" was submitted for recordation on August 10, 2010. Therefore, the recorded assignment was **after the date of issuance of this patent**. Accordingly, since the assignment was not submitted for recordation until after issuance of this patent, issuance of a certificate of correction would not be proper.

Inquiries related this communication should be directed to the undersigned at (571)272-3213.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

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SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW CA 94041

MAILED
NOV 15 2010
OFFICE OF PETITIONS

In re Application of	:	
Sourabh SATISH	:	
Application No. 11/200,326	:	DECISION ON PETITION
Filed: August 08, 2005	:	
Attorney Docket No. 20423-11829	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 08, 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 September 14, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed June 14, 2010. Accordingly, the date of abandonment of this application is September 15, 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, (2) the petition fee of $1,620.00; and (3) a proper statement of unintentional delay. Accordingly, the issue fee is accepted as being unintentionally delayed.

Telephone inquiries concerning this decision should be directed to 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

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APR 18 2012

OFFICE OF PETITIONS

In re Patent No. 8,148,109
Issued: April 3, 2012
Application No. 11/200,389
Filed: August 8, 2005
Attorney Docket No. A-632-US-CNT

: DECISION ON REQUEST
: FOR RECONSIDERATION
: OF PATENT TERM ADJUSTMENT
: AND
: NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION

This is a decision on the APPLICATION FOR PATENT TERM ADJUSTMENT - POST GRANT filed on April 3, 2012, requesting that the patent term adjustment indicated on the above-identified patent be corrected from 512 days to 910 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 nine (909) days is **GRANTED to the extent indicated herein**.

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period begins on August 8, 2008 and ends on January 24, 2010, the day before the RCE was filed, and the B delay considering the 34 days of overlap is 909, not 910. See 35 U.S.C. 154(b)(1)(B)(i). Non-overlapping B delay is 500 days. As such, the patent term adjustment is 909.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the

term of the above-identified patent is extended or adjusted by **nine hundred nine (909)** days.

Telephone inquiries specific to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 8,148,109 B2

DATED : April 3, 2012

INVENTOR(S) : Andrew Welcher

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 (512) days

Delete the phrase "by 512 days" and insert – by 909 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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KIMMO SAHRAMAA
11301 SOUTH SHORE ROAD
RESTON, VA 20190

MAILED

JAN 14 2011

OFFICE OF PETITIONS

In re Application of
Kimmo J. Sahramaa
Application No. 11/200,463
Filed: August 10, 2005
Attorney Docket No. BB07EL02005

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 6, 2010, to revive the above-identified application.

This application became abandoned for failure to timely pay the issue and publication fees on or before February 4, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed November 4, 2009. Accordingly, the date of abandonment of this application is February 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 payment of the issue fee of $755 and the publication fee of $300, (2) the petition fee of $810; and (3) an adequate statement of unintentional delay.

37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appearing in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is not a correct reading of the statement appearing in the petition.

In view of the above, the petition is **GRANTED**.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642. All other inquiries concerning this application should be directed to the Office of Data Management at their hotline 571-272-4200.

This application is being referred to the Office of Data Management for processing into a patent.

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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ALSTON & BIRD, LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

Mail Date: 10/21/2010

Applicant	: Arvin Shmilovich	: DECISION ON REQUEST FOR
Patent Number	: 7635107	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/200,515	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/09/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1170** 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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SEP 09 2010

OFFICE OF PETITIONS

Patton Boggs, LLP
2000 McKinney Avenue, Suite 1700
Dallas, TX 75201

In re Application of :
John Hayden Larue Jr., et. al. :
Application No. 11/200,523 : DECISION ON PETITION
Filed: August 9, 2005 : TO WITHDRAW FROM
Attorney Docket No. 020837.0101PTUS : RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR §§ 1.36(b) or 10.40 filed on June 25, 2010 and supplemented on August 18, 2010.

The request is **APPROVED**.

The request was signed by Matthew J. Laskoski on behalf of himself and all the attorneys/agents associated with Customer Number 32042. Therefore, Matthew J. Laskoski and all the attorneys/agents associated with Customer Number 32042 have been withdrawn.

Applicant is reminded that there are no attorneys/agents of record at this time.

This application is abandoned by operation of the law for failure to respond to the Office action mailed March 2, 2010.

The change of correspondence address is accepted. Thus all future communications from the Office will be mailed to the intervening assignee of record at the address listed below until otherwise notified by the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Medical Contracting Services, Inc.
10300 N. Central Expressway Suite 470
Dallas, TX 75231-8600

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THE MARBURY LAW GROUP, PLLC
11800 SUNRISE VALLEY DRIVE
SUITE 1000
RESTON, VA 20191

MAILED

SEP 22 2011

OFFICE OF PETITIONS

In re Application of :
Brian A. Rosenfeld et al :
Application No. 11/200,554 : DECISION GRANTING PETITION
Filed: August 10, 2005 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 2483-007 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, September 21, 2011 to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on July 29, 2011 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 3686 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

HARRINGTON & SMITH
4 RESEARCH DRIVE, SUITE 202
SHELTON CT 06484-6212

MAILED
JUL 18 2011
OFFICE OF PETITIONS

In re Application of
Assion, Norbert M.
Application No. 11/200,581
Filed: August 9, 2005
Attorney Docket No. 016A.003

: DECISION GRANTING PETITION
: UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition under 37 CFR 1.78(a)(3), filed June 7, 2011, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed concurrently with the instant petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional applications is submitted after expiration of the period specified by 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the prior-filed nonprovisional applications has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed 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 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 instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional applications, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3282.

This matter is being referred to Technology Center Art Unit 1778 for appropriate action on the amendment filed June 7, 2011, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/200,581	08/09/2005	1778	1807	016A.0003.U1(US)	27	4

CONFIRMATION NO. 4771

29683
HARRINGTON & SMITH
4 RESEARCH DRIVE, Suite 202
SHELTON, CT 06484-6212

CORRECTED FILING RECEIPT

Date Mailed: 07/14/2011

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Norbert M. Assion, Shelton, CT;

Power of Attorney: The patent practitioners associated with Customer Number 29683

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/602,572 08/18/2004
and claims benefit of 60/611,966 09/21/2004
and is a CIP of 10/424,448 04/28/2003 PAT 7,048,848
which is a CIP of 09/812,977 03/20/2001 PAT 6,605,215

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: 09/01/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/200,581**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

Liquid filter assembly

Preliminary Class

210

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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BRINKS HOFER GILSON & LIONE
PO BOX 10395
CHICAGO IL 60610

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SEP 2 0 2010

OFFICE OF PETITIONS

In re Application :
Andres Sommer :
Application No. 11/200,596 : DECISION ON APPLICATION
Filed: August 9, 2005 : FOR PATENT TERM ADJUSTMENT
Atty Docket No. 11371-76 :

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT" filed May 18, 2010. Applicant requests that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from nine (9) days to four hundred twenty-three (423) days.

The application for patent term adjustment is **DISMISSED**.

On February 26, 2010, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above identified application. The Notice stated that the patent term adjustment (PTA) to date is zero (0) days. On May 18, 2010, Applicant timely[1] submitted the instant application for patent term adjustment, asserting that the correct number of days of PTA at the time of the mailing of the Notice of Allowance is four hundred twenty-three (423) days.

Applicant states that the patent issuing from the application is not subject to a terminal disclaimer.

The Office initially determined a patent term adjustment of nine (9) days based on an adjustment for PTO delay of three hundred fifty (350) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37

[1] Applicant filed the instant application for patent term adjustment together with the payment of the issue fee.

C.F.R. § 1.703(a)(1), reduced by applicant's delay of three hundred forty-one (341) days pursuant to 35 U.S.C. 154(b)(2)(C)(i) and 37 C.F.R. § 1.704(c)(7). The PTO delay of 350 days has been reviewed and found to be correct. The adjustment of 341 days is at issue.

The adjustment of 341 days has been found to be correct. The Office mailed an Office action on December 31, 2007. Applicant timely filed a reply within three months pursuant to 37 C.F.R. §1.704(b) on March 27, 2008. However, the reply was not proper, and the Office mailed a Notice of Non-Compliant Amendment on February 3, 2009. Pursuant to 37 CFR 1.135, it is Applicant's responsibility to ensure that a reply is proper. Applicants filed a proper reply on March 3, 2009, and were assessed delay of 341 days pursuant to 37 C.F.R. 1.704(c)(7). The Office has stated that:

> Section 1.704(c)(7) establishes submission of a reply having an omission (1.135(c)) as a circumstance that constitutes a failure of an applicant to engage in reasonable efforts to conclude processing or examination of an application. Submitting a reply having an omission requires the Office to issue an action under 1.135(c) and await and process the applicant's reply to the action under 1.135(c) before the initial reply (as corrected) can be treated on its merits.[2]

The correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is **nine (9) days** (350 days of PTO delay, reduced by 341 days of applicant delay).

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e).

The application file 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

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[2] Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term; Final Rule, 1239 OG 14, 65 Fed. Reg. 54366 (Oct. 3 2000).

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DLA PIPER LLP (US)
4365 EXECUTIVE DRIVE
SUITE 1100
SAN DIEGO CA 92121-2133

MAILED
MAR 19 2012
OFFICE OF PETITIONS

In re Application of
Forde et al.
Application No 11/200,628
Filed: August 9, 2005
Attorney Docket No. GORE1680-1

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 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 November 10, 2010. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No timely extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is February 11, 2011. A Notice of Abandonment was mailed on May 20, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $930.00, and the submission required by 37 CFR 1.114; (2) the petition fee of $1860.00; and (3) a proper statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR §10.18(b). 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.

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 $1270 extension of time fee submitted on February 17, 2012 was subsequent to the maximum extendable period for reply, the fees will be refunded.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3215.

This application is being referred to Technology Center AU 3773 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
Attorney Advisor
Office of Petitions

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MAR 12 2012

OFFICE OF PETITIONS

ADELI & TOLLEN, LLP
11859 Wilshire Blvd., Suite 500
LOS ANGELES CA 90025

In re Patent No. 7,843,900 :
Issued: November 30, 2010 :
Application No.: 11/200,736 : NOTICE
Filed: August 10, 2005 :
Attorney Docket No: **KNTO.P0042** :

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 $1,130.0 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

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/200,849	08/10/2005	Srinath Gutti	INFOP014	3148

21912 7590 09/14/2010
VAN PELT, YI & JAMES LLP
10050 N. FOOTHILL BLVD #200
CUPERTINO, CA 95014

EXAMINER	
MORRISON, JAY A	

ART UNIT	PAPER NUMBER
2168	

NOTIFICATION DATE	DELIVERY MODE
09/14/2010	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):

usptocorrespondence@ip-patent.com

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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Linna R. Chen
VAN PELT, YI & JAMES LLP
10050 N. Foothill Blvd., Suite 200
Cupertino, VA 95014

In re Application of:
Srinath GUTTI et al.
Application No. 11/200,849
Filed: August 10, 2005
For: INDEXING OF DATABASE QUERIES

DECISION SUA SPONTE WITHDRAWING OFFICE ACTION

This is a decision, *sua sponte*, withdrawing the Notice of Abandonment mailed 23 July 2010.

A review of the application indicates that applicant did file both an amendment after a non-final Office Action of 12 January 2010 and a Request for 3-months extension of time on 15 July 2010. Thus, the mailing of Notice of Abandonment on 23 July 2010 was in error.

For the above stated reason, the Notice of Abandonment mailed on 23 July 2010 is hereby withdrawn and vacated.

The application has been returned to examiner of record to consider the amendment filed 15 July 2010 and issue an appropriate Office Action.

Any inquiry concerning this decision should be directed to Vincent N. Trans whose telephone number is (571) 272-3613.

/Vincent N. Trans/
Vincent N. Trans, SPRE/QAS
Technology Center 2100
Computer Architecture and Software

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BLACK LOWE & GRAHAM, PLLC
701 FIFTH AVENUE
SUITE 4800
SEATTLE, WA 98104

MAILED
FEB 25 2011
OFFICE OF PETITIONS

In re Application of
Larry A. Westerman
Application No. 11/200,914
Filed: August 10, 2005
Attorney Docket No. 3301-0001

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 18, 2011.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that on February 22, 2011 the power of attorney to Black Lowe & Graham, PLLC was revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will be directed to the address listed below until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272- 7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: MARGER JOHNSON & MCCOLLOM, P.C.
210 SW MORRISON STREET, SUITE 400
PORTLAND OR 97204

UNITED STATES PATENT AND TRADEMARK OFFICE

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Continental Automotive Systems, Inc.
Patents & Licenses
21440 W Lake Cook Road
Floor 7
Deer Park IL 60010

MAILED

SEP 26 2011

OFFICE OF PETITIONS

In re Application of :
Patrick A. O'Gorman, et al. :
Application No. 11/200,931 : ON PETITION
Filed: August 10, 2005 :
Attorney Docket No. IS02096AP :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 1, 2011, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to take appropriate action in a timely manner after the decision of May 17, 2011 by the Board of Patent Appeals and Interferences. Therefore, the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on July 18, 2011. See MPEP 1214.06.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810, and the submission required by 37 CFR 1.114; (2) the petition fee of $1,620; and (3) a proper statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. 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) 272-2991.

This application is being referred to Technology Center AU 2836 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

cc: **Joseph P. Krause**
KELLY & KRAUSE, LP
1000 Jorie Blvd., Suite 144
Oak Brook, IL 60523

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12/6/11

TO SPE OF : ART UNIT: 2193

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/200,935 Patent No. 7,987,221

CofC mailroom date 12/2/11

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: _____

/Lewis A. Bullock, Jr./ — **SPE**

2193 — **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12/6/11

TO SPE OF : ART UNIT: 2193

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/200,935 Patent No. 7,987,221

CofC mailroom date 12/2/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Ernest C. White, LIE

Certificates of Correction Branch

703-756-1814 _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

X **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

LEWIS A. BULLOCK, JR.
SUPERVISORY PATENT EXAMINER 2193
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

BLACK LOWE & GRAHAM, PLLC
701 FIFTH AVENUE
SUITE 4800
SEATTLE WA 98104

MAILED

FEB 23 2011

OFFICE OF PETITIONS

In re Application of
Larry A. Westerman
Application No. 11/200,957
Filed: August 10, 2005
Attorney Docket No. ENSE-1-1020

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 18, 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 will require the practitioner(s) to certify that he, she or they have: (1) given reasonable notice to the client, prior to the expiration of the reply period, which the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any replies that may be due and the time frame within which the client must respond, pursuant to 37 CFR 10.40 (c).

The request was signed by Lawrence D. Graham on behalf of all attorneys of record who are associated with Customer Number 25315.

All attorneys/agents associated with the Customer Number 25315 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the applicant at the address indicated below.

Currently, there is no outstanding Office action that requires a reply.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Larry A. Westerman, Ph.D c/o Scott Schaffer, Esq.
Marger, Johnson & McCollom
210 SW Morrison Street , Suite 400
Portland, OR 97204

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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TARO PHARMACEUTICALS U.S.A., INC.
C/O VENABLE LLP
P.O. BOX 34385
WASHINGTON DC 20043-9998

MAILED

OCT 20 2010

OFFICE OF PETITIONS

In re Patent No. 7,683,071 :
Issued: March 23, 2010 : DECISION ON REQUEST
Application No. 11/201,024 : FOR RECONSIDERATION OF
Filed: August 10, 2005 : PATENT TERM ADJUSTMENT
Docket No. 32308-232459 (1058 US2) :

This is a decision on the "Request for Recalculation of Patent Term Adjustment", filed April 21, 2010, which is being treated as a petition under 37 CFR 1.705(d). Patentees request that the patent term adjustment for the above-identified patent be corrected to 744 days, or in the alternative, 717 days.

The request for reconsideration of the patent term adjustment under 37 CFR 1.705(d) is **DISMISSED**.

Patentees are given **TWO (2) MONTHS** from the mail date of this decision to respond. No extensions of time will be granted under 37 CFR 1.136.

In the present petition, patentees assert:

> According to PAIR, there was a PTA reduction of 49 days corresponding to the period between February 3, 2010, when replacement drawings were filed at the request of the Office and the issue date of March 23, 2010, inclusively. This PTA reduction is excessive and incorrect.
>
> The replacement drawings filed on February 3, 2010 were accepted, and the application considered ready for issuance on February 4, 2010, a span of 2 days inclusively. Thus, the action in response to the filed

paper was February 4, 2010. The only delay caused by filing the replacement drawings was the amount of time between the date the replacement drawings were filed, and the date the replacement drawings were approved, and the application considered ready for issuance. The fact that the USPTO does not mail a response does not negate the fact that the USPTO had completed processing the submitted drawings. There is no justification to attribute the entire period between filing the replacement drawings and issuance of the patent to Applicant delay. Accordingly, the PTA reduction should be 2 days, not 49 days, and the total PTA should be 744 days.

In the alternative, the total PTA should be 717 days. The issue notification, mailed on March 3, 2010, serves as explicit notice that the submitted drawings were accepted and approved and is clearly a "mailing date of the Office action or notice." Thus, the PTA reduction should be, at most, 29 days, corresponding to the period from February 3, 2010 to March 3, 2010, and the total PTA should be 717 days.

Petition filed 04/21/10, p. 2.

As to the reduction of 49 days, the entry has been reviewed and found to be correct. 37 CFR 1.704(c)(10) specifically 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**;

Patentees acknowledge submitting replacement drawings after the mailing of the Notice of Allowance. Furthermore, patentees do not dispute that the filing of the replacement drawings is a proper basis for a reduction under 37 CFR 1.704(c)(10). However, patentees argue that the Office should calculate the period of reduction from the date of submission of the replacement drawings, February 3, 2010, to the date that the application was considered ready for issuance on February 4, 2010, or in the alternative the mailing date of the issue notification on March 3, 2010, instead of the date the patent issued, March 23, 2010.

Patentees' interpretation of 37 CFR 1.704(c)(10) is flawed. The Office reminds patentees that "[t]he action of the Patent and Trademark Office will be based exclusively on the written record in the Office." 37 CFR 1.2. It is clear from the language of 37 CFR 1.704(c)(10) that the period for reduction will end on the mailing date of an Office action or the mailing date of a notice in response to the paper. The Office needs to have the calculation performed by a computer program using the Office's records of papers mailed and received as recorded in its PALM system to be able to perform the patent term adjustment calculation.

Furthermore, patentees' assertion that the issue notification serves as the mailing date of the Office action or notice in response to the replacement drawings is also without merit.

In accordance with the specific language of 37 CFR 1.704(c)(10), the Office properly reduced the period of adjustment by 49 days, the lesser period of the number of days beginning on the date the replacement drawings were filed, February 3, 2010, and ending on the date the patent issued, March 23, 2010.

In view thereof, the patent term adjustment remains **697 days**.

The Office acknowledges the submission of the $200.00 fee set forth in 37 CFR 1.18(e).

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District

Court for the District of Columbia within 180 days after the grant of the patent.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Atty. Dkt. No. 035532-0175

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Yuju ENDO et al.
Title:	RECTANGULAR CONDUCTOR FOR SOLAR BATTERY, METHOD FOR FABRICATING SAME AND LEAD WIRE FOR SOLAR BATTERY
Appl. No.:	11/201,288
Filing Date:	8/11/2005
Examiner:	Golam Mowla
Art Unit:	1723
Confirmation Number:	3790

REQUEST FOR RELIEF DUE TO JAPAN EARTHQUAKE AND/OR TSUNAMI

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

Applicant hereby certifies and requests the following for the above-identified application. The assignee was in an area of Japan affected by the earthquake and/or tsunami of March 11, 2011. Further action after filing a Notice of Appeal was outstanding on March 11, 2011 and the time period set for response has not yet expired.

Applicant does not request reissuance of any Office Action but instead requests relief for the extension of time fees required for the RCE being filed with this request. In particular, Applicant requests that the extension of time fees for the fourth and fifth months be waived in view of the events caused by the earthquake and/or tsunami and the delay in filing an RCE and paying an extension of time fee due to the effects of the earthquake and/or tsunami.

For at least these reasons, Applicant respectfully requests relief from the extension of time fees for the fourth and fifth months. Please note that Applicant has paid the fees but should this request be granted, credit should be charged to Deposit Account No. 19-0741.

Respectfully submitted,

Date June 7, 2011 By _____

FOLEY & LARDNER LLP
Customer Number: 22428
Telephone: (202) 295-4011
Facsimile: (202) 672-5399

Glenn Law
Attorney for Applicant
Registration No. 34,371

Kevin McHenry
Attorney for Applicant
Registration No. 62,582

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

MAILED

JUN 21 2011

OFFICE OF PETITIONS

In re Application of :
Endo et al. :
Application No. 11/201,288 : DECISION ON PETITION
Filed: August 11, 2005 :
Attorney Docket No.: 035532-0175 :

This is a decision on the request filed June 7, 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 **DISMISSED.**

As set forth in the announcement, the Office action or notice will be re-mailed and the period for response will be restarted if:

(1) The patent application or reexamination proceeding is pending in the USPTO as of March 11, 2011, and a reply to an Office action (final, non-final, or other), a notice of allowance, or other Office notice is outstanding;

(2) One or more inventors, an assignee or a correspondence address is in the area of Japan affected by the earthquake and resultant tsunami of March 11, 2011;

(3) The period for response has not yet expired; and

(4) Applicant requests relief. The request must be made by using the form PTO/SB/425 or be accompanied by a copy of the announcement.

The request must be made prior to expiration of the statutory or non-statutory time period set for response and 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). The use of the form PTO/SB/425 or the inclusion of a copy of the announcement will be treated as a representation that the need for the

reissuance of the Office communication was due to the effects of the earthquake and resulting tsunami of March 11, 2011.

The instant request is dismissed since it lacks items (1) and (4).

With respect to item (1), no reply from applicant was due at time the request was filed June 7, 2011. Further, there is no outstanding Office notice or action pending against this application. Therefore, there is no relief that can be given to applicant. Accordingly, the petition is dismissed.

Additionally, it is noted that since applicant filed a Notice of Appeal as well as an Amendment After Final on November 8, 2010 that a request for relief is improper. The time period for filing an appeal brief is based upon the date a notice of appeal is filed, and not on the date an Office action or other communication is mailed. An applicant may file a petition under 37 CFR 1.136(b) (accompanied by the $200.00 petition fee) if additional time to file an appeal brief is needed due to the effects of the earthquake and/or tsunami of March 11, 2011.

With regards to item (4) the request was not accompanied by a copy of the announcement or submission of form PTO/SB/425.

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

By FAX: (571) 273-8300

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-7751.

All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Decision Date : October 7,2011

In re Application of :

Vahid Saadat

Application No : 11201401

Filed : 09-Aug-2005

Attorney Docket No : USGINZ06404

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	11201401
Filing Date	09-Aug-2005
First Named Inventor	Vahid Saadat
Art Unit	3779
Examiner Name	MATTHEW KASZTEJNA
Attorney Docket Number	USGINZ06404
Title	Shape lockable apparatus and method for advancing an instrument through unsupported anatomy

◉ 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

TAROLLI, SUNDHEIM, COVELL & TUMMINO, L.L.P.
1300 EAST NINTH STREET, SUITE 1700
CLEVELAND, OH 44114

MAILED

SEP 06 2011

OFFICE OF PETITIONS

In re Application of :
Manjula Gupta :
Application No. 11/201,508 : DECISION ON PETITION
Filed: August 11, 2005 :
Attorney Docket No. CCF-7230NP :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 24, 2011, to revive the above-identified application.

The application became abandoned for failure to timely file a reply to the non-final Office action mailed January 21, 2010. A Notice of Abandonment was mailed on January 6, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal with the $270 fee; (2) the petition fee of $810; 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 $270 fee required by 37 CFR 41.20(b)(2)), runs from the date of this decision.

This application is being referred to Technology Center Art Unit 1634 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the above application.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No.

KILPATRICK TOWNSEND
& STOCKTON LLP/VISA
TWO EMBARCADERO CENTER
8TH FLOOR
SAN FRANCISCO CA 94111

MAILED
JUN 15 2011
OFFICE OF PETITIONS

In re Application of :
Lee et al. : DECISION ON PETITION
Application No. 11/201,554 :
Filed: August 11, 2005 :
Atty Docket No. 79900-798990 :

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) filed April 28, 2011.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a reply to the non-final Office action sent March 17, 2010[1]. This Office action set a shortened statutory period for reply of three (3) months, with extensions of time obtainable under § 1.136(a). No reply considered timely filed and no extension of time considered obtained, the application became abandoned effective June 18, 2010. A courtesy Notice of Abandonment was mailed on December 15, 2010.

The petition includes the required reply, the statement of unintentional delay and payment of the petition fee. No terminal disclaimer is required.

[1] It appears that a courtesy copy of this Office action was sent on December 28, 2010. The courtesy copy did not set a new period for reply.

Technology Center AU 3621 has been advised of this decision. The application is, thereby, forwarded to the examiner for consideration of the reply submitted on petition filed April 28, 2011.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 08/30/11

TO SPE OF : ART UNIT 2624

SUBJECT : Request for Certificate of Correction for Appl. No 11/201594 7715586

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)

Should the change(s) Be made?

RoChaun Johnson
Certificates of Correction Branch
571 272-0470

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

XApproved	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

_____

_____

_____

_____

/Samir Ahmed/ **2624**

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)
7,197,977	2007-04-03	11/201,827	2005-08-11	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	◉	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Anthony L. Rahhal/	Date (YYYY-MM-DD)	2011-08-31
Name	Anthony L. Rahhal	Registration Number	37562

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
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In re Patent No. 7197977
Issue Date: April 3,2007
Application No. 11201827
Filed: August 11,2005
Attorney Docket No. 030676/292449

: DECISION GRANTING PETITION
: UNDER 37 CFR 1.378(c)

This is a decision on the electronic petition, filed August 31,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of August 31,2011 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

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GREENBERG TRAURIG, LLP (DC/ORL)
2101 L. STREET, N.W.
SUITE 1000
WASHINGTON DC 20037

MAILED

JAN 05 2011

OFFICE OF PETITIONS

In re Application of :
Shawn Hempel et al :
Application No. 11/201,901 : DECISION GRANTING PETITION
Filed: August 11, 2005 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 60136.011000 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed January 4, 2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on December 29, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 2628 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed 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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IPSG, P.C.
P.O. BOX 700640
SAN JOSE, CA 95170

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FEB 23 2011

OFFICE OF PETITIONS

In re Application of :
Tong et al. :
Application No. 11/201,939 : DECISION ON PETITION
Filed: August 10, 2005 :
Attorney Docket No. P0949D/LMRX-P015D1 :

This is a decision on the petition filed January 18, 2011, which is being treated as a petition under 37 CFR 1.181 (no fee), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the final Office action of April 1, 2010, which set a three (3) month shortened statutory period for reply. Accordingly, a reply was due on or before October 1, 2010 with a three (3) month extension of time.

Petitioner asserts that a timely reply was mailed via certificate of mailing on October 1, 2010, which included the following papers: Request for Continued Examination (RCE) Transmittal, including the submission required by 37 CFR 1.114 (Amendment D) and a three (3) month extension of time. To support this assertion the petitioner has submitted a copy of the previously mailed correspondence, that bears a certificate of mailing dated October 1, 2010, which would have rendered the reply timely if received.

The file record does not include the originally submitted papers. Failure to receive correspondence which includes a certificate of mailing or certificate of facsimile transmission is addressed in 37 CFR 1.8(b), reproduced below:

> In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:
>
> (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;

(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and

(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

The petition satisfies the above requirements of 37 CFR 1.8(b). Accordingly, the holding of abandonment for failure to timely file a reply to the final Office action of April 1, 2010 is hereby withdrawn and the application restored to pending status.

The copy of the reply received with the petition will be accepted in place of the reply shown to have been mailed (or transmitted by facsimile) on October 1, 2010.

This application is being referred to Technology Center AU 1712 for processing of the RCE and appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 5/25/2011

TO SPE OF : ART UNIT 1772 Bullock In Suk (spe)

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/202005 Patent No.: 7501092

CofC mailroom date: 6/25/2009

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

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: _____

_____

_____

_____

_____

Jim Suk Bullock
SPE

1772
Art Unit

Doc Code: PET.PTA.RCAL
Document Description: Request for Recalculation in view of Wyeth

PTO/SB/131 (02-10)
Approved for use through 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: 450112-05642	
Application Number: 11/202,011	Filing Date (or 371(b) or (f) Date): August 11, 2005
Patent Number: 7,657,327	Issue Date: February 2, 2010
First Named Inventor: Kok Eng Yeap	
Title: REMOTE CONTROLLER FOR PORTABLE ELECTRONIC DEVICE	

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 William S. Frommer	Date August 2, 2010
Name (Print/Typed) William S. Frommer	Registration Number 25,506

Note: *Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required in accordance with 37 CFR 1.33 and 11.18. Please see 37 CFR 1.4(d) for the form of the signature. If necessary, submit multiple forms for more than one signature, see below**.*

☑ *Total of 1 forms are submitted.

The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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United States Patent and Trademark Office
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FROMMER LAWRENCE & HAUG LLP
745 FIFTH AVENUE
NEW YORK, NY 10151

Mail Date: 08/12/2010

Applicant	: Kok Eng Yeap	: DECISION ON REQUEST FOR
Patent Number	: 7657327	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/202,011	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/11/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **506** 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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NIXON PEABODY, LLP
401 9TH STREET, NW
SUITE 900
WASHINGTON DC 20004-2128

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NOV 10 2010

OFFICE OF PETITIONS

In re Application of
Mark J. Stefik, et al.
Application No. 11/202,064
Filed: August 12, 2005
Attorney Docket No. 11325-025400

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) filed September 10, 2010.

The request is **NOT APPROVED**.

The Office will no longer approve requests from practitioners to withdraw from application where the requesting practitioners is acting, or has acted, in a representative capacity pursuant to 37 CFR 1.34. In these situations, the practitioner is responsible for the correspondence the practitioner files in the application while acting in a representative capacity. As such, there is no need for the practitioner to obtain the Office's permission to withdraw from representation. However, practitioners acting in a representative capacity, like practitioners who have power of attorney in the application, remain responsible for noncompliance with 37 CFR 1.56, as well as 37 CFR 10.18, with respect to the documents they file.

A review of the file record indicates that Nixon Peabody, LLP does not have power of attorney in this patent application. See 37 C.F.R. § 10.40. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

All future communications from the Office will continue to be directed to the above-listed address until otherwise properly notified by the applicant.

There are no pending Office actions at the present time.

Telephone inquires concerning this decision should be directed to undersigned at 571-272-1642.

All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

cc: CONTENTGUARD HOLDINGS, INC.
222 N. SEPULVEDA BLVD
SUITE 1400
EL SEGUNDO, CA 90245

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OBLON SPIVAK MCCLELLAND
MAIER & NEUSTADT LLP
1940 DUKE STREET
ALEXANDRIA VA 22314

MAILED
AUG 29 2011
OFFICE OF PETITIONS

In re Patent No. 7,459,239
Kashida, et al.
Application No. 11/202,167
Issue Date: December 2, 2008
Filed: August 12, 2005
Attorney Docket No. 276892US0

: DECISION ON
: REQUEST FOR RECONSIDERATION
: of PATENT TERM ADJUSTMENT
: and
: NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION

This is a decision on the "PETITION UNDER 37 C.F.R. 1.705(d) AND REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT", filed January 16, 2009, requesting that the patent term adjustment indicated on the above-identified patent be corrected from two hundred thirty-seven (237) days to three hundred forty-nine (349) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED.**

On December 2, 2008, the instant application matured into U.S. Patent No. 7,459,239 with a patent term adjustment of 237 days. The Office determined a patent term adjustment of 237 days based upon 237 days of Office delay pursuant to 37 CFR 1.703(a)(1), reduced by 0 days of Applicant delay.

Patentee is correct that the proper amount of days over 36 months from the filing date of the application until the issue date was not included in the "B" delay period. The over three year period began on August 13, 2008 and ended on December 2, 2008 (the patent issue date), and is 112 days. See 35 U.S.C. 154(b)(1)(B)(i). Therefore, the "B" delay period is 112 days, not 0 days as originally calculated.

In view thereof, the correct number of days of patent term adjustment is **three hundred forty-nine (349)** days (237 days of "A" delay and 112 days of "B" delay).

The application is being forwarded to the Certificate of Corrections Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **three hundred forty-nine (349) days.**

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

DRAFT CERTIFICATE OF CORRECTION

PATENT : 7,459,239 B2

DATED : **December 2, 2009**

INVENTOR(S) : Kashida 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 237 days.

Delete the phrase "by 237 days" and insert – by 349 days--

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WASHINGTON DC 20004-2128

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OFFICE OF PETITIONS

In re Application of
Mark J. Stefik, et al.
Application No. 11/202,203
Filed: August 12, 2005
Attorney Docket No. 11325-026800

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) filed September 10, 2010.

The request is **NOT APPROVED**.

The Office will no longer approve requests from practitioners to withdraw from application where the requesting practitioners is acting, or has acted, in a representative capacity pursuant to 37 CFR 1.34. In these situations, the practitioner is responsible for the correspondence the practitioner files in the application while acting in a representative capacity. As such, there is no need for the practitioner to obtain the Office's permission to withdraw from representation. However, practitioners acting in a representative capacity, like practitioners who have power of attorney in the application, remain responsible for noncompliance with 37 CFR 1.56, as well as 37 CFR 10.18, with respect to the documents they file.

A review of the file record indicates that Nixon Peabody, LLP does not have power of attorney in this patent application. See 37 C.F.R. § 10.40. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

All future communications from the Office will continue to be directed to the above-listed address until otherwise properly notified by the applicant.

There are no pending Office actions at the present time.

Telephone inquires concerning this decision should be directed to undersigned at 571-272-1642.

All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

cc: CONTENTGUARD HOLDINGS, INC.
222 N. SEPULVEDA BLVD
SUITE 1400
EL SEGUNDO, CA 90245

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FISH & RICHARDSON P.C. (BO)
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

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SEP 23 2011
OFFICE OF PETITIONS

In re Application of	:	
Barry J. Marshall	:	
Patent Number: 7,968,324	:	DECISION ON
Issue Date: 06/28/2011	:	APPLICATION FOR
Application No. 11/202249	:	PATENT TERM ADJUSTMENT
Filing or 371(c) Date: 08/12/2005	:	
Attorney Docket Number: 25691-0002001	:	

This is a decision on the petition filed on August 29, 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 three hundred ninety-two (392) days. The petition is properly treated under 37 CFR 1.705(d).

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by three hundred ninety-two (392) days is **GRANTED TO THE EXTENT INDICATED**.

Applicant avers that the Office erred in calculating a reduction of 61 days in connection with the filing of a reply to a non-final Office action, mailed February 22, 2010, three months and 61 days after the reply was due, on July 22, 2010. Applicant asserts that because the due date for the reply, May 22, 2010, fell over a weekend, the three (3) month date for the reply should be calculated from Monday, May 24, 2011, and the period of reduction should be 59 days, and not 61 days, as intended by 35 U.S.C. 154(b)(2)(C)(ii). Applicant references 37 CFR 1.704(b).

Consistent with this interpretation, Applicant asserts that the Office erred in calculating a reduction of 26 days in connection with the filing of a reply to a final Office action, mailed October 1, 2010, three months and 26 days after the reply was due, on January 27, 2011. Applicant again asserts that because the due date for the reply, January 1, 2011, fell over a weekend, the three (3) month date for the reply should be calculated from Monday, January 3, 2011, and the period of reduction should be 24 days, and not 26 days, as intended by 35 U.S.C. 154(b)(2)(C)(ii). Applicant again references 37 CFR 1.704(b).

Applicant also notes, in good faith and candor, that the Office errantly neglected to assess a reduction of 49 days in connection with the filing of a Certified Copy of a Foreign Priority

Document on September 9, 2010, 49 days after filing a reply to a non-final Office action on July 22, 2010.

Applicant next asserts that the Office erred in excluding time consumed by appellate review from the period of "B" Delay by starting from when a Notice of Appeal was filed. Applicant argues that "Appellate review," if it ever occurs at all, cannot occur until after jurisdiction passes to the Board of Patent Appeals and Interferences ("Board").

Finally, Applicant argues that the Office erred in subtracting from the "B" Delay period time that was not consumed by continued examination. Applicant provides that a Request for Continued Examination ("RCE"), was filed on November 12, 2009. Applicant requests an additional one hundred twenty-five (125) days of patent term adjustment in the period beginning on the date that the Notice of Allowance and Issue Fee Due was mailed, February 24, 2011, and ending on the date the patent issued, June 28, 2011. Applicant avers that with the mailing of the Notice of Allowance on February 24, 2011, the Office closed examination on the present application on that date, and no continued examination took place in the 125-day period from the mailing date of the Notice of Allowance and Issue Fee Due, to the issuance of the patent. Accordingly, Applicant asserts that 125 days of B Delay should have been included in the period of delay accorded the Director, and that the "B" Delay period should be calculated as 488 days, instead of 190 days.

Petitioner's arguments have been carefully considered. As to Petitioner's assertion that the Office erred in calculating delays of 61 and 26 days, a review of the patent statute and rule cited by Petitioner fails to support Petitioner's assertion that 35 U.S.C. 154(b)(2)(C)(ii) intended to exclude from the period of applicant delay any days where the three (3) month due date fell on a weekend. The applicable statute, 35 U.S.C. § 154(b)(2)(C)(ii), provides:

> 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.

The applicable rule, 37 CFR 1.704(b), states:

> With respect to the grounds for adjustment set forth in §§ 1.702(a) through (e), and in particular the ground of adjustment set forth in § 1.702(b), an applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of three months that are taken to reply to any notice or action by the Office making any rejection, objection, argument, or other request, measuring such three-month period from the date the notice or action was mailed

> or given to the applicant, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date that is three months after the date of mailing or transmission of the Office communication notifying the applicant of the rejection, objection, argument, or other request and ending on the date the reply was filed. The period, or shortened statutory period, for reply that is set in the Office action or notice has no effect on the three-month period set forth in this paragraph.

No support for Petitioner's assertion, that 35 U.S.C. 154(b)(2)(C)(ii) intended to exclude from the period of applicant delay any days where the three (3) month due date fell on a weekend, is found in 35 U.S.C. 154(b)(2)(C)(ii) or 37 CFR 1.704(b). (Emphasis added).

As to Applicant's disclosure, in good faith and candor, that the Office errantly neglected to assess a reduction of 49 days in connection with the filing of a Certified Copy of a Foreign Priority Document on September 9, 2010, 49 days after filing a reply to a non-final Office action on July 22, 2010, Office records confirm that Applicant is correct. On July 22, 2010, a reply to a non-final Office action was filed. Applicant thereafter filed a Certified Copy of a Foreign Priority Document on September 9, 2010. Pursuant to 37 CFR 1.704(c)(8), circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the 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. Accordingly, a reduction of 49 days, beginning on July 23, 2010, and ending on September 9, 2010, is appropriate.

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 periods of time excluded from B delay for appellate review are 65 days, beginning on December 10, 2008, the date of filing of the notice of appeal, and ending on February 12, 2009, the date of mailing of the final Office action, and 93 days, beginning on August 11, 2009, the date of filing of the notice of appeal, and ending on November 11, 2009, the day before the date of Applicant's filing of the Request for Continued Examination ("RCE").

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.

Regarding Applicant's argument that the Office erred in subtracting from the "B" Delay period time that was not consumed by continued examination, As noted infra, Applicant filed, inter alia, a Request for Continued Examination ("RCE"), on November 12, 2009. Applicant requests an additional one hundred twenty-five (125) days of patent term adjustment in the period beginning on the date that the Notice of Allowance and Issue Fee Due was mailed, February 24, 2011, and ending on the date the patent issued, June 28, 2011. Applicant avers that with the mailing of the Notice of Allowance on February 24, 2011, the Office closed examination on the present application on that date, and no continued examination took place in the 125-day period from the mailing date of the Notice of Allowance and Issue Fee Due, to the issuance of the patent. Accordingly, Applicant asserts that 125 days of B Delay should have been included in the period of delay accorded the Director, and that the "B" Delay period should be calculated as 488 days, instead of 190 days.

Counting the period of time excluded from the "B delay" for the filing of a request for continued examination under 35 U.S.C. 132(b), from the date on which the request for continued examination is filed to the date the patent is issued is proper. Patentee does not dispute that time consumed by continued examination of an application under 35 U.S.C. 132(b) is properly excluded and that the calculation of the excluded period begins on the date of filing of the request for continued examination. At issue is what further processing or examination beyond the date of filing of the request for continued examination is not any time consumed by continued examination of the application under 35 U.S.C. 132(b). The USPTO indicated in September of 2000 in the final rule to implement the patent term adjustment provisions of the AIPA that once a request for continued examination under 35 U.S.C. 132(b) and 37 CFR 1.114 is filed in an application, any further processing or examination of the application, including granting of a patent, is by virtue of the continued examination given to the application under 35 U.S.C. 132(b) and CFR 1.114. See Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term, 65 Fed. Reg. 56366, 56376 (Sept. 18, 2000) (response to comment 8). Thus, the excluded period begins with the filing of the request for continued examination and ends with the issuance of the patent.

Patentee's argument that the period of time after the issuance of a notice of allowance on a request for continued examination is not "any time consumed by continued examination requested by the applicant under section 132(b)" within the meaning of 35 U.S.C. 154(b)(1)(B)(i) is not availing. This limitation is not supported by the statutory language. Garcia v. United States, 469 U.S. 70, 75 (1984) ("only the most extraordinary showing of contrary intentions from [legislative history] would justify a limitation on the 'plain meaning' of the statutory language"). BP Am. Prod. Co. v. Burton, 549 U.S. 84, 91 (2006) ("Unless otherwise defined, statutory terms are generally interpreted in accordance with their ordinary meaning"). The statute provides for a guarantee of no more than 3-year application pendency, by providing for an adjustment in the patent term:

First, "Subject to the limitations of paragraph (2)," means that the limitations of paragraph 2 apply to this paragraph's adjustment of patent term. That is, the day-to-day extension of patent term for pendency beyond the 3 year period is restricted as follows: 1) "B delay" cannot accrue for days of "A delay" that overlap, 2) the patent term cannot be extended beyond disclaimed term, and 3) the period of adjustment, including accrued "B delay," will be reduced for applicant delay.

Second, "if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States," meaning that the condition must first occur that the issuance of an original patent (35 U.S.C. 153), not merely the issuance of a notice of allowance, is delayed due to the Office's failure to issue a patent (sign and record a patent grant in the name of the United States), not merely mail a notice of allowance, within 3 years after the actual filing date of the application in the United States. This provision gives the Office a three-year period to issue a patent (sign and record a patent grant in the name of the United States) after the application filing date before an adjustment will accrue for "B delay."

Third, "not including- (i) any time consumed by continued examination of the application requested by the applicant under section 132(b); (ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or (iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), meaning that the three-year period does not include "any time consumed by" or "any delay in processing," as specified in clauses (i)-(iii). This language correlates to 35 U.S.C. 154(b)(1)(A) which likewise provides the basis for determining the period given the Office to take the specified actions before an adjustment will accrue for "A delay" (e.g., extended for 1 day after the day after the period specified in clauses (i)-(iv)).

Furthermore, these clauses are interpreted using their ordinary meanings. Nonetheless, the context of the legislation should be considered. As stated in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008), because the clock for calculating the 20-year patent term begins to run on the filing date, and not on the day the patent is actually granted, some of the effective term of a patent is consumed by the time it takes to prosecute the application. To mitigate this effect, the statute, inter alia, grants adjustments of patent term whenever the patent prosecution takes more than three years, regardless of the reason. The time consumed by prosecution of the application includes every day the application is pending before the Office from the actual filing date of the application in the United States until the date of issuance of the patent. The time it takes to prosecute the application ends not with the mailing of the notice of allowance, but with the issuance of the patent.

Thus, not including "any time consumed by" means not including any days used to prosecute the application as specified in clauses (i)-(ii) . Clause (i) specifies "any time consumed by continued

examination of the application requested by the applicant under section 132(b)." Clause (ii) specifies "any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court." "Time" in the context of this legislation throughout refers to days. "Consumed by" means used by or used in the course of. Websters Collegiate Dictionary, (11th ed.). The "any" signifies that the days consumed by are "any" of the days in the pendency of the application, and not just days that occur after the application has been pending for 3 years. As such, "any time consumed by" refers to any days used in the course of 1) continued examination of the application under section 132(b)(the filing of a request for continued examination), 2) interference proceedings, 3) secrecy orders, and 4) appellate review. Thus, that 3-year period given to the Office to issue a patent before an adjustment will accrue for "B delay" does not include any days used in the course of or any time consumed by clauses (i)-(ii), including any time consumed by the filing of a request for continued examination.

Fourth, "the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued" meaning that the consequence of this failure is that after "the end of that 3-year period" an additional 1 day of patent term will accrue for each day that the application is pending until the day the patent is issued.

The "time consumed by" or used in the course of the continued examination of the application requested by the applicant under section 132(b) does not end until issuance of the patent. 35 U.S.C. 132(b) was enacted under the same title, the "American Inventors Protection Act of 1999," as 35 U.S.C. 154(b). Section 4403 of the AIPA amended 35 U.S.C. § 132 to provide, at the request of the applicant, for continued examination of an application for a fee (request for continued examination or RCE practice), without requiring the applicant to file a continuing application under 37 CFR 1.53(b) or a continued prosecution application (CPA) under 37 CFR 1.53(d). Thus, clause (i) is different from clause (ii) in that clause (i) refers to an examination process whereas clause (ii) refers to time consumed by proceedings (interferences, secrecy orders and appeals) in an application.

By nature, the time used in the course of the examination process continues to issuance of the patent. The examination process involves examining the application to ascertain whether it appears that the applicant is entitled to a patent under the law. See 35 U.S.C. 131 ("[t]he Director shall cause an examination to be made of the application and the alleged new invention; and if on such examination it appears that the applicant is entitled to a patent under the law, the Director shall issue a patent therefor"). If on examination it appears that the applicant is entitled to a patent, the USPTO issues a notice of allowance. See 35 U.S.C. 151 ("[i]f it appears that applicant is entitled to a patent under the law, a written notice of allowance of the application shall be given or mailed to the applicant"). If on examination it appears that the applicant is not entitled to a patent, the USPTO issues a notice (an Office action) stating the applicable rejection, objection, or other requirement, with the reasons therefor. See 35 U.S.C. 132 ("[w]henever, on examination, any claim for a patent is rejected, or any objection or requirement made, the Director shall notify the applicant thereof, stating the reasons for such rejection, or objection or

requirement, together with such information and references as may be useful in judging of the propriety of continuing the prosecution of his application"). Neither the issuance of a notice of allowance nor the insurance of an Office action terminates the examination process. If after the issuance of an Office action under 35 U.S.C. 132 it subsequently appears that the applicant is entitled to a patent (e.g., in response to an argument or amendment by the applicant), the USPTO will issue a notice of allowance. Conversely, if after the issuance of a notice of allowance under 35 U.S.C. 151 it subsequently appears that the applicant is not entitled to a patent (e.g., in response to information provided by the applicant or uncovered by the USPTO), the USPTO will withdraw the application from issuance and issue an Office action under 35 U.S.C. 132 stating the applicable rejection, objection, or other requirement, with the reasons therefor.

As held in Blacklight Power, the USPTO's responsibility to issue a patent containing only patentable claims does not end with the issuance of a notice of allowance under 35 U.S.C. 151. See BlackLight Power, Inc. v. Rogan, 295 F.3d 1269, 1273 (Fed. Cir. 2002). Rather, if there is any substantial, reasonable ground within the knowledge or cognizance of the Director as to why an application should not issue, it is the USPTO's duty to refuse to issue the patent even if a notice of allowance has previously been issued for the application. See In re Drawbaugh, 9 App. D.C. 219, 240 (D.C. Cir 1896).

Moreover, the applicant continues to be engaged in the examination process after the mailing of the notice of allowance. 37 CFR 1.56 makes clear that the applicant has a duty to disclose information material to patentability as long as the application is pending before the USPTO (i.e., until a patent is granted or the application is abandoned). See 37 CFR 1.56(a) ("[t]he duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned"). 37 CFR 1.97 and 1.98 provide for the consideration of information submitted by the applicant after a notice of allowance has been mailed. See 37 CFR 1.97(d). In addition, 37 CFR 1.312 provides for the amendment of an application after a notice of allowance has been mailed. In fact, the request for examination procedures permit the filing of a request for continued examination under 37 CFR 1.114 even after the issuance of a notice of allowance under 35 U.S.C. 151. See 37 CFR 1.114(a)(1).

As the examination process does not terminate with the mailing of the notice of allowance, the time consumed by continued examination 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).

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period begins on August 13, 2008, and ends on November 11, 2009, the day before the RCE, filed November 12, 2009, was filed, and is 456 days. See, 35 U.S.C. 154(b)(1)(B)(i). However, as noted infra, the periods of appeal of 65 and 93 days are properly excluded from the period of "B" 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 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 hundred ninety-eight (198) days** (adjustments of 575 days less reductions of 377 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 : 7,968,324 B2

DATED : **June 28, 2011**

INVENTOR(S) : Marshall

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 247 days.

Delete the phrase "by 247 days" and insert – by 198 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

CHRIS M HYMEL
3515 COUNTY ROAD 81
ROSHARON TX 77583

MAILED

JUN 09 2011

OFFICE OF PETITIONS

In re Application of :
Chris Hymel :
Application No. 11/202,418 : ON PETITION
Filed: August 10, 2005 :
Attorney Docket No. HYMEL-CARDS :

This is a decision on the petition to revive under 37 CFR 1.137(b), filed May 12, 2011.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to timely file a reply in response to the non-final Office action mailed July 18, 2008. This Office action set a shortened statutory period for reply of three months. No reply having been received, the application became abandoned on October 19, 2008. The Office mailed a Notice of Abandonment on June 26, 2009.

With the instant petition, applicant made a statement of unintentional delay, paid the petition fee, and filed the required reply in the form of an Amendment.

The application is being forwarded to Group Art Unit 2178 for consideration of the Amendment, filed May 18, 2011.

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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SEP 13 2010

OFFICE OF PETITIONS

ROUND
LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK, LLP
600 SOUTH AVENUE WEST
WESTFIELD, NJ 07090

In re Patent No. 7,145,374 :
Issue Date: December 5, 2006 :
Application No. 11/202,513 : NOTICE
Filed: August 11, 2005 :
Attorney Docket No. 01-1017.01 :
(MICS:0218-1)

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 C. Goodwyn at (571) 272-6735.

Thurman K. Page
Petitions Examiner
Office of Petitions

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O'BANION & RITCHEY LLP/ SONY ELECTRONICS, INC.
400 CAPITOL MALL
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SACRAMENTO, CA 95814

MAILED

FEB 18 2011

OFFICE OF PETITIONS

In re Application of :
Behram Mario Dacosta :
Application No. 11/202,581 : ON PETITION
Filed: August 11, 2005 :
Attorney Docket No. METHOD FOR DATA SYNCHRONIZATION WITH MOBILE WIRELESS DEVICES

This is a decision on the petition, filed February 18, 2011 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on December 13, 2010 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2454 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).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 2/26/11

TO SPE OF : ART UNIT 3733

SUBJECT : Request for Certificate of Correction for Appl. No.: 11202725 Patent No.: 7722674

CofC mailroom date: 2/14/11

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
[redacted]

Certificates of Correction Branch

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

xApproved	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

/Eduardo C. Robert/ SPE

3733 Art Unit

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P.O. Box 1450
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PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

MAILED

SEP 26 2011

OFFICE OF PETITIONS

In re Application of :
Allard et al. :
Application Number: 11/202,875 : DECISION ON PETITION
Filing Date: 08/12/2005 :
Attorney Docket Number: VDX5064USNP2 :

This is a decision on the petition, filed on August 27, 2011, which is treated as a petition under 37 CFR 1.78(a)(3) and (a)(6), to accept an unintentionally delayed claim under 35 U.S.C. §§ 365(c), 120, and 119(e) for the benefit of priority to the prior-filed nonprovisional, international, and provisional applications set forth in the concurrently filed amendment.

The petition under 37 CFR 1.78(a)(3) and (a)(6) is **DISMISSED.**

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000 and after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional where there is a question whether the delay was unintentional.

The petition does not comply with item (1).

At the outset, it is noted that the proposed amendment states that the subject application "is the U.S. National Stage of PCT/US2004/005848, filed February 26, 2004." However, the subject application was filed as a nonprovisional application under 35 U.S.C. § 111(a), not as a national stage under 35 U.S.C. 371. As such, it is improper to identify this application as a National Stage of a prior-filed PCT application.

MPEP 201.11(III)(A) states:

> 37 CFR 1.78(a)(2)(i) requires that any nonprovisional or international application designating the United States of America 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 or international 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.

As such, if the subject application is a continuation or divisional of the prior-filed international application, it must be properly noted in an amendment or Application Data Sheet.

Furthermore, it is noted that applicants state that this application claims priority "under 35 U.S.C. 365(c)" to the prior filed provisional applications. A claim under § 365(c) is similar to a claim under § 120 and may have the effect of reducing the patent term.

MPEP 201.11(III)(B) states:

> When the nonprovisional application is entitled to an earlier U.S. effective filing date of one or more provisional applications under 35 U.S.C. 119(e), a statement such as "This application claims the benefit of U.S. Provisional Application No. 60/---, filed ---, and U.S. Provisional Application No. 60/ ---, filed ---." should appear as the first sentence(s) of the description or in an application data sheet. In addition, for an

> application which is claiming the benefit under 35 U.S.C. 120 of a prior application, which in turn claims the benefit of a provisional application under 35 U.S.C. 119(e), a suitable reference would read, "This application is a continuation of U.S. Application No. 10/---, filed ---, which claims the benefit of U.S. Provisional Application No. 60/---, filed ---.". In the case of design applications, it should appear as set forth in MPEP § 1504.20.

The relationship (i.e., continuation, divisional, or continuation-in-part) is not required and should not be specified when a prior provisional application is being claimed under 35 U.S.C. 119(e). No relationship should be specified because whenever a priority claim to a provisional application under 35 U.S.C. 119(e) is made, it is implicit that the relationship is "nonprovisional application of a provisional application." If a relationship between a prior provisional application and the nonprovisional application is submitted, it may be unclear whether the applicant wishes to claim the benefit of the filing date of the provisional application under 35 U.S.C. 119(e) or 120. Thus, applicants seeking to claim the priority to a provisional application under 35 U.S.C. 119(e) should not state that the application is a "continuation" of a provisional application or that the application claims 35 U.S.C. 120 benefit to a provisional application. Although 35 U.S.C. 120 does not preclude a benefit claim to a provisional application, it is not recommended that applicants claim the benefit to a provisional application under 35 U.S.C. 120 since such a claim could have the effect of reducing the patent term, as the term of a patent issuing from such an application may be measured from the filing date of the provisional application pursuant to 35 U.S.C. 154(a)(2).

Petitioners may wish to consider claiming benefit under § 119(e), rather than under § 365(c), to the prior-filed provisional applications.

Further, the reference to the above-noted, prior-filed application was not included in the manner specified in 37 CFR §§ 1.78(a)(2) and (a)(5)(*i.e.*, in an ADS or in an amendment to the first sentence following the title of the specification). Specifically, the present petition does not include an amendment to the specification contained on a separate paper (*See* 37 CFR 1.121(h)), nor is the amendment in compliance with 37 CFR 1.121(b).

Accordingly, before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition under 37 CFR § 1.78(a)(3) and an ADS or an amendment to the first sentence of the specification complying with 37 CFR 1.121 and stating the relationship of the prior-filed application to the instant application is required.

Furthermore, the reference to add the above-noted, prior-filed application in the first sentence of the specification on page one following the title is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications. An incorporation by reference statement

added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. §§ 365(c), 120, and 119(e), after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 365(c), 120, or 119(e) is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

If reconsideration of this decision is desired, a renewed petition under 37 CFR § 1.78(a)(3) and an Application Data Sheet or an amendment (complying with the provisions of 37 CFR 1.121 and 37 CFR 1.76(b)(5)) to correct the above matters are required.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

A reply may also be filed via the EFS-Web filing system of the USPTO.

Any inquiries concerning this decision may be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Bryan Lin
PCT Legal Examiner
Office of PCT Legal Administration

Doc Code: PET.PTA.RCAL
Document Description: Request for Recalculation in view of Wyeth

PTO/SB/131 (01-10)
Approved for use through 02/28/2011. OMB 0651-0020
U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH**

Attorney Docket Number: TI-38935	Patent Number: 7,660,419
Filing Date (or 371(b) or (f) Date): 08-12-2005	Issue Date: 02/09/2010
First Named Inventor: Jin-Meng Ho	
Title: SYSTEM AND METHOD FOR SECURITY ASSOCIATION BETWEEN COMMUNICATION DEVICES WITHIN A WIRELESS PERSONAL AND LOCAL AREA 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 / Wade J. Brady III /	Date August 2, 2010
Name (Print/Typed) Wade J. Brady III	Registration Number 32,080

Note: *Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required in accordance with 37 CFR 1.33 and 11.18. Please see 37 CFR 1.4(d) for the form of the signature. If necessary, submit multiple forms for more than one signature, see below**.

☑ *Total of 1 forms are submitted.

The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS, TX 75265

Mail Date: 09/02/2010

Applicant	: Jin-Meng Ho	: DECISION ON REQUEST FOR
Patent Number	: 7660419	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/202,886	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/12/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1216** 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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ROBINS & PASTERNAK LLP
SUITE 230
1731 EMBARCADERO ROAD
PALO ALTO, CA 94303

MAILED
JUL 27 2011
OFFICE OF PETITIONS

In re Patent No. 7,276,248
Issue Date: October 2, 2007
Application No. 11/202,913
Filed: August 12,2005
Attorney Docket No. 55325-8167.US08

DECISION ON PETITION

This is a decision on the petition, filed, June 1, 2011, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee's name on the front page of the above-identified patent by way of a certificate of correction.

The request is **GRANTED**.

Petitioner states that the correct assignees names are ALZA Corporation and Yissum Research Development Company of the Hebrew University of Jerusalem, petitioner further states that the assignees names were incorrectly indicated on the Fee(s) Transmittal form PTOL-85(b) at the time of payment of the issue fee. Accordingly, petitioner requests that a certificate of correction be issued to reflect the correct assignees on the front page of the Letters Patent.

The request was accompanied by a certificate of correction (and fees) as required by 3.81(b). Further, Office assignment records reflect that ALZA Corporation and Yissum Research Development Company of the Hebrew University of Jerusalem were the assignees of record before issuance of the patent. Accordingly, the request complies with the provisions of 37 CFR 3.81(b), it is appropriate for a certificate of correction to be processed.

Inquiries concerning this decision should be directed to Alicia Kelley-Collier at (571) 272-6059. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

This matter is being referred to the Certificates of Correction Branch for processing of a certificate of correction.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

[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.
11/202,983	08/12/2005	Thomas J. Rebeschi	61130US002	8991

32692 7590 10/13/2011
3M INNOVATIVE PROPERTIES COMPANY
PO BOX 33427
ST. PAUL, MN 55133-3427

EXAMINER	
JOSEPH, DENNIS P	

ART UNIT	PAPER NUMBER
2629	

NOTIFICATION DATE	DELIVERY MODE
10/13/2011	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

LegalUSDocketing@mmm.com

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United States Patent and Trademark Office
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www.uspto.gov

3M INNOVATIVE PROPERTIES COMPANY
PO BOX 33427
ST. PAUL MN 55133-3427

In re Application of:	:	
REBESCHI, THOMAS J. et al	:	DECISION ON PETITION TO
Application Serial No.: 11/202,983	:	WITHDRAW RESTRICTION
Filed: August 12, 2005	:	REQUIREMENT UNDER
For: **TOUCH SCREEN HAVING REDUCED SUSCEPTIBILITY TO RADIO FREQUENCY INTERFERENCE**	:	37 CFR 1.144

This is a decision on the petition filed November 8, 2010, under 37 CFR § 1.144 requesting withdrawal of the restriction requirement issued by the examiner on October 8, 2010.

BACKGROUND

A Final office action was mailed on September 18, 2009 rejecting all 12 claims under 35 USC 112, 2nd and 35 USC 103.

An Advisory action was mailed on November 17, 2009 indicating the proposed After Final amendment filed on October 29, 2009 will not be entered due to the proposed After Final amendment raised new issues that would require further consideration and/or search.

Applicants filed a Notice of Appeal on December 18, 2009 and an Appeal Brief on March 18, 2010. Due to the Notice of Defective Appeal Brief mailed on April 15, 2010, applicants filed a second Appeal Brief on May 7, 2010.

Subsequently, on October 8, 2010, an Office action was mailed to reopen the prosecution without a new ground of rejection, and only an election of species requirement was made.

Petitioner seeks relief by filing the instant petition requesting that the restriction requirement be withdrawn and a notice of allowance of this application.

REGULATIONS AND PRACTICE

MPEP 803 [R-3] Restriction — When Proper

Under the statute>, the claims of< an application may properly be required to be restricted to one of two or more claimed inventions only if they are able to support separate patents and they are either independent (MPEP § **>802.01, § 806.06, and § 808.01<) or distinct (MPEP § 806.05 - § *>806.05(j)<).

If the search and examination of **>all the claims in an< application can be made without serious burden, the examiner must examine *>them< on the merits, even though **>they include< claims to independent or distinct inventions.

There are two criteria for a proper requirement for restriction between patentably distinct inventions:

(A) The inventions must be independent (see MPEP § 802.01, § *>806.06<, § 808.01) or distinct as claimed (see MPEP § 806.05 - § *>806.05(j)<); and

(B) There *>would< be a serious burden on the examiner if restriction is >not< required (see MPEP § 803.02, **> § 808<, and § 808.02).

MPEP 811 Time for Making Requirement [R-3]

37 CFR 1.142(a), second sentence, **>indicates that a restriction requirement "will normally< be made before any action upon the merits; however, it may be made at any time before final action **." This means the examiner should make a proper requirement as early as possible in the prosecution, in the first action if possible, otherwise, as soon as the need for a proper requirement develops.

Before making a restriction requirement after the first action on the merits, the examiner will consider whether there will be a serious burden if restriction is not required.

MPEP 1207.04 Reopening of Prosecution After Appeal [R-8]

The examiner may, with approval from the supervisory patent examiner, reopen prosecution to enter a new ground of rejection after appellant's brief or reply brief has been filed. The Office action containing a new ground of rejection may be made final if the new ground of rejection was (A) necessitated by amendment, or (B) based on information presented in an information disclosure statement under 37 CFR 1.97(c) where no statement under 37 CFR 1.97(e) was filed.

See MPEP § 706.07(a). Any after final amendment or affidavit or other evidence that was not entered before must be entered and considered on the merits.

OPINION

The restriction requirement in the office action mailed on October 8, 2010 was improper for the following reasons:

- The examination record shows that claims 1-12 have been examined since the first office action mailed 7/28/08. Following the first office action, there were additional 5 office actions rejecting all 12 claims until the Notice of Appeal was filed on December 18, 2009. Record shows no evidence of serious burden on the examiner if the restriction was not required. MPEP 803.
- Since the office action mailed on October 8, 2010 does not contain any new ground of rejection after appellant's brief, the restriction requirement alone in the office action mailed on October 8, 2010 is improper at this time of the examination. MPEP 1207.04.
- The restriction requirement in the office action mailed on October 8, 2010 does not comply with 37 CFR 1.142(a). MPEP 811.

CONCLUSION

For the above stated reasons, the petition to withdraw the restriction requirement is **GRANTED**.

The record shows a Notice of Appeal and an Appeal Brief have since been filed on December 18 2009 and May 7, 2010, respectively. As a result of the petition decision, the Examiner's restriction requirement on October 8, 2010 as written is withdrawn. The Application is being returned to the examiner. The Appeal Brief filed May 7, 2010 will be considered and an office action will be forthcoming.

Any inquiry regarding this decision should be directed to John Peng, Quality Assurance Specialist, at (571) 272-7272.

Richard K. Seidel, Director
Technology Center 2600
Communications

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AUG 02 2010

OFFICE OF PETITIONS

THE LAW OFFICE OF DEEPTI PANCHAWAGH-JAIN
5524 PERUGIA CIRCLE
SAN JOSE, CA 95138

In re Application of :
Ronald SCHEMERS III, et *al.* :
Application No. 11/202,987 : DECISION ON PETITION TO
Filed: August 12, 2005 : WITHDRAW FROM RECORD
Attorney Docket No. **A475** :

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 8, 2010.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to **THE LAW OFFICE OF DEEPTI PANCHAWAGH-JAIN** has been revoked by the assignee of the patent application on May 21, 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 the undersigned at 571-272- 7253.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

cc: **VMWARE, INC.**
DARRYL SMITH
3401 HILLVIEW AVENUE
PALO ALTO, CA 94304

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SCHWEGMAN, LUNDBERG & WOESSNER, PA
P.O. BOX 2938
MINNEAPOLIS MN 55402

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OCT 05 2010

OFFICE OF PETITIONS

In re Application of
James F. Fowler, et al.
Application No. 11/203,012
Filed: August 12, 2005
Attorney Docket No. 2141.002US1

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 August 27, 2010.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Schwegman, Lundberg & Woessner, PA has been revoked by the assignee of the patent application on September 29, 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 undersigned at 571-272- 1642.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/203,012	08/12/2005	James F. Fowler	2141.002US1

CONFIRMATION NO. 9088

POWER OF ATTORNEY NOTICE

21186
SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

Date Mailed: 10/04/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/29/2010.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

/amwise/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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Ethan D. Civan
Suite 200
Two Penn Center Plaza
Philadelphia, PA 19102-1706

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NOV 29 2010

OFFICE OF PETITIONS

In re Application of	:	
John J. Eckert, et. al.	:	
Application No. 11/203,027	:	DECISION ON PETITION
Filed: August 12, 2005	:	TO WITHDRAW FROM
Attorney Docket No. 2005-0118-US	:	RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR §§ 1.36(b), or 10.40 filed June 24, 2010.

The request is **APPROVED**.

The request was signed by Ethan D. Civan on behalf of himself and all the attorneys/agents of record. Therefore, Ethan D. Civan and all the attorneys/agents of record have been withdrawn.

Applicant is reminded that there are no attorneys/agents of record at this time.

There is an outstanding Office action mailed August 2, 2010 that requires a reply from the applicant.

In this case, all future communications from the Office will be directed to the first named signing inventor at the first listed address listed below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

cc: John J. Eckert/Quixam, LLC
P.O. Box 377
Cheltenham, PA 19012

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UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/203,027	08/12/2005	John J. Eckert	2005-0118-US

CONFIRMATION NO. 8968

Ethan D. Civan
Suite 200
Two Penn Center Plaza
Philadelphia, PA 19102-1706

POWER OF ATTORNEY NOTICE

Date Mailed: 11/22/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/24/2010.

- 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.

/amsmith/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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OCT 05 2010

OFFICE OF PETITIONS

SCHWEGMAN, LUNDBERG & WOESSNER, PA
P.O. BOX 2938
MINNEAPOLIS MN 55402

In re Application of
James F. Fowler, et al.
Application No. 11/203,037
Filed: August 12, 2005
Attorney Docket No. 2141.001US1

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 August 27, 2010.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Schwegman, Lundberg & Woessner, PA has been revoked by the assignee of the patent application on September 29, 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 undersigned at 571-272- 1642.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/203,037	08/12/2005	James F. Fowler	2141.001US1

CONFIRMATION NO. 8942

POWER OF ATTORNEY NOTICE

21186
SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

OC000000043825375

Date Mailed: 10/04/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/29/2010.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/amwise/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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P.O. BOX 2938
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OFFICE OF PETITIONS

In re Application of
James F. Fowler, et al.
Application No. 11/203,049
Filed: August 12, 2005
Attorney Docket No. 2141.003US1

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 August 27, 2010.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Schwegman, Lundberg & Woessner, PA has been revoked by the assignee of the patent application on September 29, 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 undersigned at 571-272- 1642.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/203,049	08/12/2005	James F. Fowler	2141.003US1

CONFIRMATION NO. 9133

POWER OF ATTORNEY NOTICE

21186
SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

OC000000043825105

Date Mailed: 10/04/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/29/2010.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

/amwise/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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OCT 05 2010

OFFICE OF PETITIONS

In re Application of
James F. Fowler, et al.
Application No. 11/203,061
Filed: August 12, 2005
Attorney Docket No. 2141.004US1

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 August 27, 2010.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Schwegman, Lundberg & Woessner, PA has been revoked by the assignee of the patent application on September 29, 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 undersigned at 571-272- 1642.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/203,061	08/12/2005	James F. Fowler	2141.004US1

CONFIRMATION NO. 9069

POWER OF ATTORNEY NOTICE

21186
SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

Date Mailed: 10/04/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/29/2010.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

/amwise/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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Ethan D. Civan
Suite 200
Two Penn Center Plaza
Philadelphia, PA 19102-1706

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NOV 29 2010
OFFICE OF PETITIONS

In re Application of :
John J. Eckert, et. al. :
Application No. 11/203,081 : DECISION ON PETITION
Filed: August 12, 2005 : TO WITHDRAW FROM
Attorney Docket No. 2005-0117-US : RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR §§ 1.36(b), or 10.40 filed June 24, 2010.

The request is **APPROVED**.

The request was signed by Ethan D. Civan on behalf of himself and all the attorneys/agents of record. Therefore, Ethan D. Civan and all the attorneys/agents of record have been withdrawn.

Applicant is reminded that there are no attorneys/agents of record at this time.

In this case, all future communications from the Office will be directed to the first named signing inventor at the first listed address listed below until otherwise properly notified by the applicant.

This application is being referred to Technology Center Art Unit 3686 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

cc: John J. Eckert/Quixam, LLC
P.O. Box 377
Cheltenham, PA 19012

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Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/203,081	08/12/2005	John J. Eckert	2005-0117-US

CONFIRMATION NO. 1313

Ethan D. Civan
Two Penn Center Plaza
Suite 200
Philadelphia, PA 19102-1706

POWER OF ATTORNEY NOTICE

OC000000044611121

Date Mailed: 11/22/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/24/2010.

- 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.

/amsmith/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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)
7,254,759	2007-08-07	11/203,236	2005-08-15	LKSP0071USA

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
◉	3 ½ year	(1551)	○	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Winston Hsu/	Date (YYYY-MM-DD)	2011-09-23
Name	Winston Hsu	Registration Number	41526

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Patent No. 7254759
Issue Date: August 7,2007
Application No. 11203236
Filed: August 15,2005
Attorney Docket No. 0941-1289PUS1

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed September 23,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of September 23,2011 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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SCHWARTZ LAW FIRM, P.C.
6100 FAIRVIEW ROAD
SUITE 11350
CHARLOTTE NC 28210

MAILED

JAN 03 2011

OFFICE OF PETITIONS

In re Application of	:	
Bradley R. Larschan et al.	:	
Patent No. 7,117,075	:	
Issued: October 3, 2006	:	NOTICE
Application No. 11/203,280	:	
Filed: August 15, 2005	:	
Attorney Docket No. **321/29**	:	

This is a notice regarding your request filed December 1, 2010, for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-4584.

/JoAnne Burke/
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

DILLON & YUDELL LLP
8911 N. CAPITAL OF TEXAS HWY.,
SUITE 2110
AUSTIN, TX 78759

MAILED
APR 29 2011
OFFICE OF PETITIONS

In re Application of :
Pirooz M. Joodi :
Application No. 11/203,324 : ON PETITION
Filed: August 11, 2005 :
Attorney Docket No.: END920050054US1 :

This is a decision in response to the petition, filed March 10, 2011, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to a non-final Office action mailed August 18, 2008. A Notice of Abandonment was subsequently mailed on March 7, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of amendment; (2) the petition fee of $1,620; and (3) an adequate statement of unintentional delay.

The application is being referred to Technology Center AU 3623 for consideration by the Examiner in the normal course of business on the response filed March 10, 2011.

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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Angus C. Fox, III
4093 N. Imperial Way
Provo UT 84604-5386

MAILED

AUG 11 2010

OFFICE OF PETITIONS

In re Application of	:	
David C. Steed, Jr., et al.	:	
Application No. 11/203,473	:	DECISION ON PETITION
Filed: August 11, 2005	:	
Attorney Docket No. Max04-01	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed July 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). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed November 7, 2008, and a one (1) 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 February 8, 2008. See MPEP 1215.04.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Appeal Brief, (2) the petition fee, 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 2618 for appropriate action by the Examiner in the normal course of business on the reply received.

Terri Johnson
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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MARSHALL, GERSTEIN & BORUN LLP
233 SOUTH WACKER DRIVE
6300 WILLIS TOWER
CHICAGO, IL 60606-6357

MAILED
JUN 16 2011
OFFICE OF PETITIONS

In re Application of	:	
Melvin Ayala, et al.	:	
Application No. 11/203,510	:	DECISION ON PETITION
Filed: August 12, 2005	:	
Attorney Docket No. 29171/40599A	:	

This is a decision on the petition under 37 CFR 1.182, filed, March 21, 2011, to correct the spelling of the name of inventor "Malek Adjoundi" to – Malek Adjouadi --.

The petition is **GRANTED**.

Office records have been corrected to reflect the correct spelling of the above-named inventor. A corrected Filing Receipt, which sets forth the correct spelling of the above-named inventor, accompanies this decision on petition.

The issue fee in this case was paid on January 27, 2009. Therefore, the printing of the patent may have progressed to the point where the correct spelling of the inventor's name could not be included on the front page of the Letters Patent. In such event, petitioner may request a certificate of correction pursuant to the provisions of 37 CFR 1.323 and pay the required fee of $100.

As authorized, the $400 fee for the petition under 37 CFR 1.182 has been assessed to petitioner's deposit account.

Any questions concerning this matter may be directed to Terri Johnson at (571) 272-2991.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/203,510	08/12/2005	2129	1065	29171/40599A	27	2

CONFIRMATION NO. 1599

CORRECTED FILING RECEIPT

4743
MARSHALL, GERSTEIN & BORUN LLP
233 SOUTH WACKER DRIVE
6300 WILLIS TOWER
CHICAGO, IL 60606-6357

Date Mailed: 06/15/2011

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)

Melvin Ayala, Hollywood, FL;
Malek Adjouadi, Miami, FL;

Assignment For Published Patent Application

THE FLORIDA INTERNATIONAL UNIVERSITY BOARD OF TRUSTEES, Miami, FL

Power of Attorney: The patent practitioners associated with Customer Number 04743

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/703,828 07/29/2005

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: 06/14/2011

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/203,510**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

ARTIFICIAL NEURAL NETWORK DESIGN AND EVALUATION TOOL

Preliminary Class

706

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

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JEFFREY R. MORRIS
127 Quail Ridge Drive
Midland GA 31820

MAILED
OCT 03 2011
OFFICE OF PETITIONS

In re Patent No. 7,182,554 :
Issue Date: February 27, 2007 :
Application No. 11/203,597 : ON PETITION
Filed: August 15, 2005 :
Attorney Docket No. **AAT312** :

This is a decision on the petition under 37 CFR 1.378(c), filed September 21, 2011, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired at midnight February 27, 2011, for failure to pay the 3½ year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at (571) 272-4584.

JoAnne Burke
Petitions Examiner
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/203,597	08/15/2005	Jeffrey R. Morris	AAT312

CONFIRMATION NO. 8586

34356
ASHKAN NAJAFI, P.A.
6817 SOUTHPOINT PARKWAY
SUITE 2301
JACKSONVILLE, FL 32216

POWER OF ATTORNEY NOTICE

OC000000050155711

Date Mailed: 10/03/2011

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/21/2011.

- The Power of Attorney to you in this application has been revoked by the applicant. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

/jlburke/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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MAILED

SEP 24 2010

OFFICE OF PETITIONS

LUCAS & MERCANTI, LLP
475 PARK AVENUE SOUTH
15TH FLOOR
NEW YORK NY 10016

In re Application of :
Udo Schutz :
Application No. 11/203,665 : ON PETITION
Filed: August 12, 2005 :
Attorney Docket No. PR-74 :

This is a renewed decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 26, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the final Office action mailed, April 1, 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 2, 2009. A Notice of Abandonment was mailed on December 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 RCE (Request for Continued Examination, with the required fee of $810, (2) the petition fee of $810, and (3) a proper statement of unintentional delay. Accordingly, the RCE is accepted as being unintentionally delayed.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

The fees submitted with the renewed petition for the (RCE) and Extension of time was paid at a large entity rate. If the entity status has changed in this application, then petitioner should notify the Office of this change.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to Technology Center AU 3781 for appropriate action by the Examiner in the normal course of business on the RCE received July 26, 2010.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 02/09/11

TO SPE OF : ART UNIT 3629

SUBJECT : Request for Certificate of Correction for Appl. No.: 11203695 Patent No.: 7860805

CofC mailroom date: 01/27/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580
You can fax the Directors/SPE response to 571-270-9990

_____
Certificates of Correction Branch

Lamonte Newsome

Certificates of Correction Branch
571-272-3421

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

_____

_____

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Jamisue A. Plucinski 3629

Jamisue A. Plucinski

SPE Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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FRASER CLEMENS MARTIN & MILLER LLC
28366 KENSINGTON LANE
PERRYSBURG OH 43551

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MAR 09 2011

OFFICE OF PETITIONS

In re Patent of Peter :
Patent No. 7,271,559 :
Issued: September 18, 2007 : NOTICE
Application No. 11/203,735 :
Filed: August 15, 2005 :
Attorney Docket No. V207-0017 (1-38829)

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28, filed February 4, 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
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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WEINGARTEN, SCHURGIN, GAGNEBIN & LEBOVICI LLP
TEN POST OFFICE SQUARE
BOSTON MA 02109

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MAR 03 2011
OFFICE OF PETITIONS

In re Patent No. 7,171,716 :
Issued: February 6, 2007 :
Application No. 11/203,779 : ON PETITION
Filed: August 15, 2005 :
Attorney Docket No. 3769-003 CONII :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed February 4, 2011.

On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-7751.

Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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HICKMAN PALERMO TRUONG & BECKER LLP/Yahoo! Inc.
2055 Gateway Place
Suite 550
San Jose CA 95110-1083

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OFFICE OF PETITIONS

ON PETITION

In re Patent No. 7,610,267 :
Issue Date: October 27, 2009 :
Application No. 11/203,832 :
Filed: August 13, 2005 :
Attorney Docket No. 50269-0654 :

This is a decision on the petition under 37 CFR 1.182, filed June 22, 2010, requesting issuance of a duplicate Letters Patent for the above-identified patent.

The petition is **GRANTED**.

The Office of Data Management is directed to issue a duplicate Letters Patent.

Telephone inquiries concerning this decision may be directed to Kimberly Inabinet at (571) 272-4618. Inquiries regarding the issuance of a duplicate Letters Patent may be directed to the Office of Data Management at (703) 308-9250.

A petition fee of $400 is required as set forth in 35 U.S.C. 1.17(f). As requested the fee will be charged to deposit account no. 50-1302. The fee of $130 will be refunded to the credit card account used as payment.

A copy of this decision is being forwarded to the Publishing Division for issuance of duplicate Letters Patent.

Carl Friedman
Petitions Examiner
Office of Petitions

cc: Niomi Farmer, RSQ, (Fax – (571) 270-9753))

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F. CHAU & ASSOCIATES, LLC
130 WOODBURY ROAD
WOODBURY NY 11797

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NOV 15 2010

OFFICE OF PETITIONS

In re Application of	:	
Jae-Jin Lyu et al	:	
Application No. 11/204,041	:	DECISION GRANTING PETITION
Filed: August 16, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. SAMS-0001-UT1	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed November 12, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on October 12, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 2871 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed 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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Paper No.

K&L GATES LLP
P.O. BOX 1135
CHICAGO IL 60690

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OFFICE OF PETITIONS

In re Application of	:	
Baerlocher et al.	:	DECISION ON APPLICATION
Application No. 11/204,101	:	FOR
Filed: 08/15/2005	:	PATENT TERM ADJUSTMENT
Atty Docket No.	:	
3718611.02694	:	

This letter is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b) filed on August 25, 2010. The petition is being treated as a request that the initial determination of patent term adjustment be reduced by 15 days from 610 days to 595 days.

The application for patent term adjustment is **GRANTED**.

The Office has updated the PALM and PAIR screens to reflect that the revised Patent Term Adjustment determination at the time of the mailing of the Notice of Allowance is five hundred ninety-five (595) days. A copy of the updated PAIR screen, showing the revised determination, is enclosed.

On June 1, 2010, the Office mailed the initial Determination of Patent Term Adjustment under 35 USC 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is six hundred ten (610) days (815 days of Office delay reduced by 205 days of applicant delay).

On August 25, 2010, applicants timely submitted the instant application for patent term adjustment.[1]

Applicants request reconsideration of the patent term adjustment in connection with the supplemental reply (Information Disclosure Statement (IDS)) filed on March 2, 2010, 15 days after the day after the date a reply was filed, February 15, 2010. Specifically, applicants state that entry of a period of reduction of 15 days for applicant delay is warranted.

Upon review, applicants are correct. On February 15, 2010, a Request for Continued Examination was filed as the response to a final Office action. On March 2, 2010, 15 days after the day after the date the response was filed, the IDS was filed. The IDS did not contain the statement set forth at § 1.704(d). Accordingly, pursuant to 37 CFR 1.704(c)(8), an additional period of reduction of 15 days for applicant delay is warranted.

In view thereof, the revised determination of PTA at the time of the mailing of the Notice of Allowance is **five hundred ninety-five (595)** days (815 days of PTO delay, reduced by 220 (205 + 15) days of Applicant delay).

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The Office thanks applicants for their good faith and candor in bringing this to the attention of the Office.

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 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 if applicable, 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).

---

[1] PALM records show that the Issue Fee was received on August 25, 2010.

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 adjusted PAIR calculation

11/204,101	GAMING SYSTEM HAVING MULTIPLE GAMING MACHINES WHICH PROVIDE BONUS AWARDS	11-09-2010::07:55:03

Patent Term Adjustments

Patent Term Adjustment (PTA) for Application Number: 11/204,101

Filing or 371(c) Date:	08-15-2005	Overlapping Days Between {A and B} or {A and C}:	0
Issue Date of Patent:	-	Non-Overlapping USPTO Delays:	815
A Delays:	815	PTO Manual Adjustments:	-15
B Delays:	0	Applicant Delays:	205
C Delays:	0	Total PTA Adjustments:	595

Patent Term Adjustment History **Explanation Of Calculations**

Number	Date	Contents Description	PTO(Days)	APPL (Days)	Start
114	11-09-2010	Adjustment of PTA Calculation by PTO		15	0
104	06-01-2010	Mail Notice of Allowance			0
103	05-27-2010	Issue Revision Completed			0
102	05-26-2010	Allowed Case Returned to the Examiner for Clerical Processing			0
101	05-26-2010	Document Verification			0
100	05-26-2010	Notice of Allowance Data Verification Completed			0
99	05-24-2010	Notice of Allowability			0
94	03-02-2010	Information Disclosure Statement considered			0
93	05-07-2010	Date Forwarded to Examiner			0
92	05-06-2010	Amendment Submitted/Entered with Filing of CPA/RCE			0
91	05-06-2010	Request for Continued Examination (RCE)			0
90	05-07-2010	Disposal for a RCE / CPA / R129			0
89	05-06-2010	Workflow - Request for RCE - Begin			0
88	05-05-2010	Email Notification			0
87	05-05-2010	Mail Examiner Interview Summary (PTOL - 413)			0
86	04-29-2010	Examiner Interview Summary Record (PTOL - 413)			0
85	03-02-2010	Reference capture on IDS			0
84	03-02-2010	Information Disclosure Statement (IDS) Filed			0
83	03-03-2010	Electronic Review			0
82	03-02-2010	Information Disclosure Statement (IDS) Filed			0
81	03-03-2010	Email Notification			0
80	03-03-2010	Mail Final Rejection (PTOL - 326)			0
79	02-26-2010	Final Rejection			0
78	02-16-2010	Date Forwarded to Examiner			0
77	02-15-2010	Amendment Submitted/Entered with Filing of CPA/RCE			0
76	02-15-2010	Request for Continued Examination (RCE)			0
75	02-16-2010	Disposal for a RCE / CPA / R129			0
74	02-15-2010	Workflow - Request for RCE - Begin			0
73	11-17-2009	Electronic Review			0
72	11-17-2009	Email Notification			0
71	11-17-2009	Mail Final Rejection (PTOL - 326)			0
70	11-09-2009	Final Rejection			0
69	09-16-2009	Information Disclosure Statement considered			0
68	09-16-2009	Information Disclosure Statement (IDS) Filed		0	66
67	10-29-2009	Date Forwarded to Examiner			0
66	09-16-2009	Response after Non-Final Action			0
65	09-16-2009	Information Disclosure Statement (IDS) Filed			0
64	06-03-2009	Information Disclosure Statement (IDS) Filed		205	41
63	08-11-2009	Electronic Review			0
62	08-11-2009	Email Notification			0
61	08-11-2009	Mail Supplemental Non-Final Action			0

60	08-06-2009	Supplemental Non-Final Action		0
59	07-07-2009	Electronic Review		0
58	07-07-2009	Email Notification		0
57	07-07-2009	Mail Non-Final Rejection	119	41
56	07-01-2009	Non-Final Rejection		0
55	01-17-2006	Information Disclosure Statement considered		0
54	03-03-2006	Information Disclosure Statement considered		0
53	04-11-2006	Information Disclosure Statement considered		0
52	07-21-2006	Information Disclosure Statement considered		0
51	12-15-2006	Information Disclosure Statement considered		0
50	04-24-2007	Information Disclosure Statement considered		0
49	12-31-2007	Information Disclosure Statement considered		0
48	06-03-2009	Information Disclosure Statement considered		0
47	06-12-2009	Case Docketed to Examiner in GAU		0
46	06-03-2009	Information Disclosure Statement (IDS) Filed		0
45	12-17-2008	Email Notification		0
44	12-17-2008	Mail Examiner Interview Summary (PTOL - 413)		0
43	12-09-2008	Examiner Interview Summary Record (PTOL - 413)		0
42	11-13-2008	Date Forwarded to Examiner		0
41	11-10-2008	Response to Election / Restriction Filed		0
40	11-10-2008	Request for Extension of Time - Granted		0
39	09-10-2008	Electronic Review		0
38	09-10-2008	Email Notification		0
37	09-10-2008	Mail Restriction Requirement	696	-1
36	09-05-2008	Requirement for Restriction / Election		0
35	02-22-2008	Preliminary Amendment		0
34	12-31-2007	Reference capture on IDS		0
33	12-31-2007	Information Disclosure Statement (IDS) Filed		0
32	12-31-2007	Information Disclosure Statement (IDS) Filed		0
31	10-17-2007	Withdraw Flagged for 5/25		0
30	10-16-2007	Flagged for 5/25		0
29	09-19-2007	Case Docketed to Examiner in GAU		0
28	08-24-2007	Case Docketed to Examiner in GAU		0
27	07-18-2007	Case Docketed to Examiner in GAU		0
26	07-06-2007	Correspondence Address Change		0
25	01-17-2006	Information Disclosure Statement (IDS) Filed		0
24	04-24-2007	Reference capture on IDS		0
23.7	04-24-2007	Information Disclosure Statement (IDS) Filed		0
23	04-24-2007	Information Disclosure Statement (IDS) Filed		0
22	03-19-2007	Preliminary Amendment		0
21	12-15-2006	Reference capture on IDS		0
20.7	12-15-2006	Information Disclosure Statement (IDS) Filed		0
20	12-15-2006	Information Disclosure Statement (IDS) Filed		0
19.7	07-21-2006	Electronic Information Disclosure Statement		0
19	07-21-2006	Information Disclosure Statement (IDS) Filed		0
18	04-11-2006	Reference capture on IDS		0
17.7	04-11-2006	Information Disclosure Statement (IDS) Filed		0
17	04-11-2006	Information Disclosure Statement (IDS) Filed		0
16.7	04-11-2006	Information Disclosure Statement (IDS) Filed		0
15	03-20-2006	Case Docketed to Examiner in GAU		0
14	03-03-2006	Reference capture on IDS		0
13.7	03-03-2006	Information Disclosure Statement (IDS) Filed		0

13	03-03-2006	Information Disclosure Statement (IDS) Filed	0
12	12-02-2005	IFW TSS Processing by Tech Center Complete	0
11	12-02-2005	Case Docketed to Examiner in GAU	0
10	10-03-2005	Application Dispatched from OIPE	0
9	10-03-2005	Application Is Now Complete	0
8	09-26-2005	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic	0
7	08-31-2005	Notice Mailed--Application Incomplete--Filing Date Assigned	0
3	08-25-2005	Cleared by OIPE CSR	0
2	08-20-2005	IFW Scan & PACR Auto Security Review	0
1	08-15-2005	Initial Exam Team nn	0

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/204,134	08/15/2005	Stephane Vannuffelen	26.0274 US	1533

7590 02/11/2011

Schlumberger K.K.
Attn: Intellectual Property Counsel
2-2-1 Fuchinobe
Sagamihara-shi
Kanagawa-ken, 229-0006
JAPAN

EXAMINER	
PAJOOHI, TARA S	

ART UNIT	PAPER NUMBER
2886	

MAIL DATE	DELIVERY MODE
02/11/2011	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.

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February 10, 2011

Schlumberger K.K.
Attn: Intellectual Property Counsel
2-2-1 Fuchinobe, Sagamihara-shi
Kanagawa-ken 229-0-006 JP JAPAN

In re Application of
VANNUFFELEN, STEPHANE, et al.
Application No. **11/204134**
Filed: **08/15/2005**
Attorney Docket No: **26.0274 US**

: **DECISION ON PETITION**

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 15, 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.

/Bernadette Queen/
Quality Control Specialist
Office of Data Management
Publications Branch

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/204,134	08/15/2005	Stephane Vannuffelen	26.0274 US	1533

7590 03/02/2011

Schlumberger K.K.
Attn: Intellectual Property Counsel
2-2-1 Fuchinobe
Sagamihara-shi
Kanagawa-ken, 229-0006
JAPAN

EXAMINER	
PAJOOHI, TARA S	

ART UNIT	PAPER NUMBER
2886	

MAIL DATE	DELIVERY MODE
03/02/2011	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
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March 2, 2011

Schlumberger K.K.
Attn: Intellectual Property Counsel
2-2-1 Fuchinobe
Sagamihara-shi
Kanagawa-ken 229-0-006 JP JAPAN

re Application of
VANNUFFELEN, STEPHANE , Et. Al : **DECISION ON PETITION**
Application No: **11/204134** : **ACCEPTANCE OF COLOR**
Filed: **08/15/2005** : **DRAWINGS**
Attorney Docket No: **26.0274 US** :

This is a decision on the Renewal of Petition to Accept Color Drawings under 37 C.F.R 1.84 (a) (2), received in the United States Patent and Trademark Office (USPTO) February 23, 2011.

The petition is **GRANTED**.

A grantable petition under 37 C.F.R. 1.84(a) (2) must be accompanied by the following.

1. The fee set forth under 37 C.F.R. 1.17(h),
2. Three (3) sets of the color drawings in question, or (1) set if filed via EFS, and
3. The specification containing the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings.

   "The file of this patent contains at least one drawing executed in color. Copies of this patent with color drawing(s) will be provided by the Patent and Trademark Office upon request and payment of the necessary fee."

The petition was accompanied by all of the required fees and drawings. The specification contains the appropriate language. Therefore, the petition is GRANTED.

Telephone inquires relating to this decision may be directed to the undersigned in the Office of Data Management at 571-272-4200.

/Bernadette Queen/
Quality Control Specialist
Office of Data Management
Publications Branch

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WONG, CABELLO, LUTSCH, RUTHERFORD & BRUCCULERI, L.L.P.
20333 SH 249 6th Floor
HOUSTON TX 77070

MAILED

MAY 24 2011

OFFICE OF PETITIONS

In re Application of :
Richard Mayfield et al. :
Application No. 11/204,189 :
Filed: August 15, 2005 :
Attorney Docket No. **04-031-US (149-0136US)** :

DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney of record under 37 CFR § 1.36(b), filed May 16, 2011.

The request is **NOT APPROVED**.

The request cannot be approved because it lacks the name of the first inventor or the assignee of record that is associated with the address listed in the request. Therefore, the change of correspondence address is considered improper.

The Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest *who properly became of record under 37 CFR 3.71,* or, if no assignee of the entire interest has properly been made of record, the most current address information provided for the first named inventor. 37 CFR 3.71(c) states:

> *An assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement in compliance with § 3.73(b) that is signed by a party who is authorized to act on behalf of the assignee.*

The assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, the statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-4584.

JoAnne Burke
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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AUG 02 2010

OFFICE OF PETITIONS

MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP
300 S. WACKER DRIVE, 32ND FLOOR
CHICAGO IL 60606

In re Patent No. 7,288,380
Issue Date: October 30, 2007
Application No. 11/204,191
Filed: August 15, 2005
Attorney Docket No. 97-078-Q

DECISION ON PETITION

This is a decision on the Request Under 37 C.F.R. §3.81(b), filed June 24, 2010, which is being treated as a Petition Under 37 CFR 3.81(b), to accept the correct assignee's name. A completed Certificate of Correction Form (PTO/SB/44) was submitted with Petition.

The petition under 37 CFR 3.81(b) is **GRANTED**.

Petitioner requests that the present Petition was submitted to correct the assignee's name on the previously submitted PTOL-85B and such error was inadvertent. Accordingly, petitioner requests 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 that accompanied the petition.

Inquiries related this communication should be directed to the undersigned at (571)272-3213.

Any questions concerning the issuance of a Certificate of Correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

This matter is being referred to the Certificates of Correction Branch for processing of a Certificate of Correction in U.S. Patent No. 7,288,380.

Cheryl Gibson-Baylor
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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WILLIAMS, MORGAN & AMERSON
10333 RICHMOND, SUITE 1100
HOUSTON, TX 77042

Mail Date: 08/04/2010

Applicant	: Tjietse van der Gaast	: DECISION ON REQUEST FOR
Patent Number	: 7653396	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/204,194	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/15/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **870** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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EDWARDS ANGELL PALMER & DODGE LLP
P.O. BOX 55874
BOSTON MA 02205

MAILED

SEP 29 2010

OFFICE OF PETITIONS

In re Patent No. 7,662,830
Issued: February 16, 2010
Application No. 11/204,202
Filed: August 13, 2005
Attorney Docket No. 61940 (72021)

: DECISION ON REQUEST
: FOR RECONSIDERATION
: OF PATENT TERM ADJUSTMENT
: AND
: NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(d)" filed April 16, 2010, requesting that the patent term adjustment determination for the above-identified patent be changed from 513 days to 779 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-eight (658) days is **GRANTED to the extent indicated herein**.

Patentee has miscalculated the total patent term adjustment. In this instance the period consumed by appellate review begins on January 2, 2009 and ends on July 9, 2009 and is 189 days. Further, the Office has determined that the period of overlap is 122 days. Considering the exclusion and the overlap, the "B delay" is 241 days. Thus, the patent term adjustment is increased to 658 days.

The Office acknowledges the authorization to charge the $200.00 fee set forth in 37 CFR 1.18(e) to the credit card provided.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **six hundred fifty-eight (658)** days.

Telephone inquiries specific to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,662,830 B2

DATED : February 16, 2010

INVENTOR(S) : Charles A. Blum

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 (513) days

Delete the phrase "by 513 days" and insert – by 658 days--

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AUG 12 2011

OFFICE OF PETITIONS

EDWARDS ANGELL PALMER & DODGE LLP
P.O. BOX 55874
BOSTON MA 02205

In re Patent No. 7,662,830
Issued: February 16, 2010
Application No. 11/204,202
Filed: August 13, 2005
Attorney Docket No. 61940 (72021)

: DECISION ON REQUEST
: FOR RECONSIDERATION
: OF PATENT TERM ADJUSTMENT
: AND
: NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION

This is a decision on the "RENEWED REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT" filed October 29, 2010, requesting that the patent term adjustment determination for the above-identified patent be changed from 658 days to 779 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 adjusted by seven hundred seventy-nine (779) days and is **GRANTED**.

On April 16, 2010, patentee filed a REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(d). On September 29, 2010, the Office mailed a decision granting the petition under 37 CFR 1.705(d) to the extent that a certificate of correction would be issued indicating that the term of the patent was extended or adjusted by 658 days.

The Office notes that the decision of September 29, 2010, was issued in error. Accordingly, the decision of September 29, 2010, is withdrawn. The present decision supersedes the decision mailed on September 29, 2010.

The Office has determined that the patent term adjustment for the above-identified patent is 779 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

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 seventy-nine (779)** days.

Telephone inquiries specific to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,662,830 B2

DATED : February 16, 2010

INVENTOR(S) : Charles A. Blum

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 (513) days

Delete the phrase "by 513 days" and insert – by 779 days--

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 1/13/10 **Paper No.:** ———

TO SPE OF : ART UNIT 1625

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/204263 Patent No.: 7569586 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: _____

/Janet L. Andres/ 1625

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FUJITSU MANAGEMENT SERVICES OF AMERICA, INC.
2318 MILL ROAD, SUITE 1010
ALEXANDRIA, VA 22314

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OCT 14 2010

OFFICE OF PETITIONS

In re Application of :
Teruhisa Ninomiya et al :
Application No. 11/204,582 : ON PETITION
Filed: August 16, 2005 :
Attorney Docket No. 05-50681

This is a decision on the petition, filed October 12, 2010 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on October 11, 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 2618 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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MARK A. LITMAN & ASSOCIATES, PA
YORK BUSINESS CENTER
SUITE 205
3209 W. 76TH STREET
EDINA, MN 55435

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AUG 02 2010

OFFICE OF PETITIONS

In re Application of
Brock Lundberg, et al.
Application No. 11/204,895
Filed: August 15, 2005
Attorney Docket No. 601.001US2

: DECISION ON PETITION

This is a decision on the petition under the unavoidable provisions of 37 CFR 1.137(a), filed April 9, 2010, to revive the above-identified application.

The application became abandoned for failure to reply in a timely manner to the Notice of Non-Compliant Amendment (Notice), mailed September 18, 2009, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on October 20, 2009.

The petition is **DISMISSED.**

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d). The instant petition lacks item (3).

Petition attests that the response to the non-final Office action mailed September 18, 2009 was unavoidable because the Office action was never received. A review of the record indicates that the Office action was mailed to the address of record.

The showing required to establish non-receipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-

received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See MPEP 711.03(c), under the subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action;" and 1156 Off. Gaz. Pat. Office 53 (November 16, 1993).

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.

In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

If petitioner cannot provide the evidence necessary to establish unavoidable delay, or simply does not wish to, petitioner may wish to consider filing a petition stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the $810 petition fee.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

Any further petition to revive must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration

request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)." This is **not** a final agency action within the meaning of 5 U.S.C.§ 704.

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 April M. Wise at (571) 272-1642.

/dab/
David Bucci
Petitions Examiner
Office of Petitions

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Commissioner for Patents
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YORK BUSINESS CENTER
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EDINA, MN 55435

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OFFICE OF PETITIONS

In re Application of
Brock Lundberg, et al.
Application No. 11/204,895
Filed: August 16, 2005
Attorney Docket No. 601.001US2

ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(a), filed September 13, 2010 to revive the above-identified application, which is being treated as a petition under 37 CFR 1.181 requesting withdrawal of the Notice of Abandonment mailed March 26, 2010.

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 December 7, 2009, which continued to run from the original Notice of Non-compliant Amendment mailed September 18, 2009, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on October 19, 2009.

Petitioner asserts the Notice of Abandonment mailed March 29, 2010 be withdrawn as petitioner never received the Notice of Non-compliant Amendment (Notice), mailed December 7, 2009.

To support this assertion petitioner has submitted: (1) a statement from petitioner stating that the Office communication was not received by the inventor and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received; and (2) a copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed. Accordingly, it is concluded that petitioner never received the Notice of Non-compliant Amendment (Notice), mailed December 7, 2009.

Telephone inquiries concerning this decision should be directed to April M. Wise at (571) 272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 1794 for appropriate action by the Examiner in the normal course of business on the reply received April 9, 2010.

/dab/
David Bucci
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10-21-10

TO SPE OF : ART UNIT 2878

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/204913 Patent No.: 7399954

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Angela Green 703-756-1541
Certificates of Correction Branch
703-756-1814

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

_____

_____

_____

_____

Georgia Epps 2878

SPE **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

PAPER NO.:

DATE : 8/20/10

TO SPE OF : ART UNIT: 2164 Attn: RONES CHARLES (SPE)

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/204922 Patent No.: 7739314

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.
Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square Building (RSQ)
2800 South Randolph Street, Suite 9XXXX
Arlington, VA 22206
PALM Location 7580

Tasneem Siddiqui

Certificates of Correction Branch
703-756-1593

Thank You for Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

xApproved	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: Does not change the scope of the claims. /Charles Rones/ SPE 2164

SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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PO BOX 16370
OKLAHOMA CITY OK 73113

MAILED
AUG 02 2010
OFFICE OF PETITIONS

In re Application of :
Charles C. Freeny :
Application No. 11/204,927 : ON PETITION
Filed: August 16, 2005 :
Attorney Docket No. 2551.203 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 14, 2010, to revive the above-identified application. This is also a decision on the communication under 37 CFR 1.28(c), filed May 14, 2010.

The petition is **GRANTED**.

The application became abandoned on June 11, 2009, for failure to timely reply to the final Office action mailed March 10, 2009. A Notice of Abandonment was mailed on October 19, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuing application under 37 CFR 1.53(b); (2) the petition fee of $1,620.00; and (3) a proper statement of unintentional delay.

This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of continuing Application No. 11/501,177 filed July 10, 2009.

As to the request for acceptance of a fee deficiency submission under 37 CFR 1.28(c) on May 14, 2010:

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Petitioner should note that the fee deficiency submitted on May 14, 2010, should have been paid at the current large entity rate. Therefore, since an unnecessary extension of time fee was submitted with the petition on May 14, 2010, a portion of the extension fee was applied to the deficiency payment under 37 CFR 1.28(c) leaving a balance of $40 to be refunded to petitioner's credit card account.

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

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.
11/204,958	08/16/2005	Robert W. Redmond	51588/62015CIP2DIV	4326

71284 7590 09/22/2011

EDWARDS ANGELL PALMER & DODGE LLP
P.O. BOX 55874
BOSTON, MA 02205

EXAMINER	
ORKIN, ALEXANDER J	
ART UNIT	**PAPER NUMBER**
3773	

MAIL DATE	DELIVERY MODE
09/22/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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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September 21, 2011

EDWARDS ANGELL PALMER & DODGE LLP
P.O. BOX 55874
BOSTON MA 02205

In re Application of :
REDMOND, ROBERT W. , et al. : **DECISION ON PETITION**
Application No: **11/204958** :
Filed: **08/16/2005**
Attorney Docket No: **51588/62015CIP2DIV**

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 16, 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- 576-1565.

/Bernadette Queen/
Quality Control Specialist
Office of Data Management
Publications Branch

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Patent No. : 7,770,220 B2
Ser. No. : 11/204961
Inventor(s) : Fernstrom
Issued : Aug. 3, 2010
Title : SYSTEM AND METHOD FOR SECURING DOCUMENTS USING AN ATTACHED ELECTRONIC DATA STORAGE DEVICE
Docket No. : 20050289-US-NP
Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid,* including after issuance of the patent.

In view of the foregoing, your request, in this matter, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1. 17(i) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(703) 872-9306 ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Ennis Young
For Mary Diggs
Decisions & Certificates
of Correction Branch
(571) **272-3435** or (703) 756-1814

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P. O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

PATENT DOCUMENTATION CENTER
XEROX CORPORATION
100 CLINTON AVE SOUTH
MAILSTOP: XRX2-020
ROCHESTER, NY 14644

MAILED
SEP 29 2011
OFFICE OF PETITIONS

In re Patent No. 7,770,220 :
Issue Date: August 3, 2010 :
Application No. 11/204,961 : ON PETITION
Filed: August 16, 2005 :
Attorney Docket No. 20050289-US-NP :

This is a decision on the petition filed August 10, 2011, under 37 CFR 3.81(b)[1] to add the assignee's name on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **granted.**

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3210. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

This application is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Irvin Dingle
Petitions Examiner
Office of Petitions

[1] See Official Gazette of June 22, 2004

UNITED STATES 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
PATENT-SEA
P.O. BOX 1247
SEATTLE WA 98111-1247

MAILED

AUG 02 2010

OFFICE OF PETITIONS

In re Application of :
Sherlock Chu :
Application No. 11/205,260 :
Filed: August 16, 2005 :
Attorney Docket No. 320528683US :
Title: METHOD FOR DETECTING :
DATA DEFECT IN OPTICAL :
RECORDING MEDIUM :

ON APPLICATION FOR
PATENT TERM ADJUSTMENT

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(B)" filed April 19, 2010. Applicants submit that the correct patent term adjustment to be indicated on the patent is one thousand two hundred thirty-three (1,233) days, not four hundred sixty-seven (467) 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].

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[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and **must** include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Charlema Grant at (571) 272-3215.

Anthony Knight
Director
Office of Petitions

UNITED STATES 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 18 2011

PCT LEGAL ADMINISTRATION

BRIGGS AND MORGAN P.A.
2200 IDS CENTER
80 SOUTH 8TH ST
MINNEAPOLIS MN 55402

In re Application of FREEMAN
Application No.: 11/205,373
Filing Date: 17 August 2005
Attorney Docket No.: 38634-28US
For: METHOD AND APPARATUS FOR CONTINUOUS ELECTRODE IMPEDANCE MONITORING

DECISION ON PETITION

UNDER 37 CFR 1.78(a)(6)

This decision is issued in response to applicant's "Petition and Amendment Under 37 CFR 1.78 for Unintentional Delay in Correcting Priority Claim" filed 23 August 2011, to accept an unintentionally delayed claim under 35 U.S.C. §119 for the benefit of priority to the prior-filed international application set forth in the concurrently filed amendment to the specification.

Such petition is hereby **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 the 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 under must be accompanied by:

(1) the reference required by 35 U.S.C. § 119(e)and 37 CFR 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(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.

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(6) in that (1) a reference to the prior-filed international application has been included in the currently filed amendment, as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. §119(e) to the prior-filed provisional application satisfies the conditions of 37 CFR 1.78(a)(6), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed international application under 37 CFR 1.78(a)(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© and 37 CFR §1.78 must be met. Similarly, the fact that any Filing Receipt includes the prior-filed application should not be construed as meaning

that applicant is entitled to the claim for benefit of priority to the prior filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether this application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Cynthia M. Kratz at (571) 272-3286.

This matter is being referred to Technology Center Art Unit 3736 for appropriate action.

/Bryan Lin/
Bryan Lin
PCT Legal Examiner
Office of PCT Legal Administration

ATTACHMENT: Corrected Filing Receipt

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 03/16/12

TO SPE OF : ART UNIT: 1628 Attn: FETTEROLF BRANDON J (SPE)

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/205474 Patent No.: 7211600

CofC mailroom date: 02/29/2012

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Note: Please check the Specifications
For the requested corrections on the PTO/SB/44 Form

Tasneem Siddiqui
Certificates of Correction Branch
703-756-1814 & 703-756-1593

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

X **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

_____

_____

_____

/Brandon J Fetterolf/ AU 1628_

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

Decision Date : October 3,2011

In re Application of :

Brian Morin

Application No : 11205575

Filed : 17-Aug-2005

Attorney Docket No : ILX-4

DECISION ON PETITION

UNDER CFR 1.137(b)

This is an electronic decision on the petition under 37 CFR 1.137(b), filed October 3,2011 , to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Allowance and Issue Fee(s) Due. The date of abandonment is the day after the expiration date of the period set for reply in the Notice.

The electronic petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the Issue Fee and the Publication Fee (if necessary); (2) the petition fee as set forth in 37 CFR 1.17 (m); (3) the drawing correction and/or other deficiencies (if necessary); and (4) the required statement of unintentional delay have been received. Accordingly, the Issue Fee payment is accepted as having been unintentionally delayed.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to the Patent Electronic Business Center (EBC) at 866-217-9197.

This application file is being directed to the Office of Data Management.

Office of Petitions

Doc Code: PET.AUTO Document Description: Petition automatically granted by EFS-Web	PTO/SB/64 U.S. Patent and Trademark Office Department of Commerce

Electronic Petition Request	PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)
Application Number	11205575
Filing Date	17-Aug-2005
First Named Inventor	Brian Morin
Art Unit	1786
Examiner Name	MATTHEW MATZEK
Attorney Docket Number	ILX-4
Title	COMPOSITE MATERIALS INCLUDING HIGH MODULUS POLYOLEFIN FIBERS

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus any extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee – required for all utility and plant applications filed before June 8, 1995; and for all design applications;
(4) Statement that the entire delay was unintentional.

Petition fee
The petition fee under 37CFR 1.17(m) is attached.

☐ Applicant claims SMALL ENTITY status. See 37 CFR 1.27.

☐ Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

☒ Applicant(s) status remains as SMALL ENTITY.

☐ Applicant(s) status remains as other than SMALL ENTITY.

Issue Fee and Publication Fee :

Issue Fee and Publication Fee must accompany ePetition.

☒ Issue Fee Transmittal is attached

Drawing corrections and/ or other deficiencies.

◉ Drawing corrections and/ or other deficiencies are not required

○ I certify, in accordance with 37 CFR 1.4.(D)(4), that drawing corrections and/ or other deficiencies have previously been filed on

○ Drawing corrections and/ or other deficiencies are attached.

☒ STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional.

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

I certify, in accordance with 37 CFR 1.4(d)(4) that I am:

○ An attorney or agent registered to practice before the Patent and Trademark Office who has been given power of attorney in this application.

◉ An attorney or agent registered to practice before the Patent and Trademark Office, acting in a representative capacity.

○ A sole inventor

○ A joint inventor; I certify that I am authorized to sign this submission on behalf of all of the inventors.

○ A joint inventor; all of whom are signing this e-petition.

○ The assignee of record of the entire interest that has properly made itself of record pursuant to 37 CFR 3.71.

Signature	/Douglas W. Kim/
Name	Douglas W. Kim
Registration Number	44828

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

CHRYSLER GROUP LLC
CIMS 483-02-19
800 CHRYSLER DR EAST
AUBURN HILLS MI 48326-2757

MAILED

NOV 30 2010

OFFICE OF PETITIONS

In re Application of	:	
Leslie Osenkowski	:	
Application No. 11/205,626	:	DECISION ON PETITION
Filed: August 17, 2005	:	
Attorney Docket No. 707178US1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 26, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before October 19, 2010, as required by the Notice of Allowance and Fee(s) Due mailed July 19, 2010. Accordingly, the date of abandonment of this application is October 20, 2010. A Notice of Abandonment was mailed November 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 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.

Further, it is not apparent whether the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute this patent application. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

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

IBM CORPORATION
LOTUS SOFTWARE
ONE ROGERS STREET
CAMBRIDGE, MA 02142

MAILED

SEP 22 2011

OFFICE OF PETITIONS

In re Application of :
Gerd Breiter, et. al. :
Application No. 11/205,631 : DECISION ON PETITION
Filed: August 17, 2005 :
Attorney Docket No. 260-041 DE9-2004-0004US1 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 14, 2011, to revive the above-identified application.

The application became abandoned for failure to file a timely reply to the Notice of Allowance and Fee(s) Due (Notice) mailed on April 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 $1,510 for payment of the issue fee and $300 for payment of the publication fee; (2) the petition fee of $1,620; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

The instant petition is not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of David Dagg 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. If Mr. Dagg desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. A courtesy copy of this decision is being mailed to petitioner. Nevertheless, all future correspondence regarding this application file will be directed solely to the address of record until otherwise instructed.

This application file is being referred to the Office of Data Management for further processing into a patent.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

cc: David Dagg
44 Chapin Road
Newton, MA 02459

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

THE ECLIPSE GROUP LLP
10605 BALBOA BLVD., SUITE 300
GRANADA HILLS CA 91344

MAILED

AUG 27 2010

OFFICE OF PETITIONS

In re Application of :
Allan Devantier et al. :
Application No. 11/205,773 : DECISION ON PETITION
Filed: August 16, 2005 :
Attorney Docket No. HI04003USU :
(P05010US)

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 8, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the final Office action mailed, November 10, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on February 11, 2010. 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 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 2128 for appropriate action by the Examiner in the normal course of business on the RCE received July 8, 2010.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : October 6, 2011

TO SPE OF : ART UNIT 1616

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/205873 Patent No.: 7985412

CofC mailroom date: 8-30-11

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: _____

_____

_____

_____

_____

SPE 1616 Art Unit

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

PAGE 1/1 * RCVD AT 10/6/2011 6:15:31 PM [Eastern Daylight Time] * SVR:W-PTOFAX-002/42 * DNIS:2709942 * CSID:5712730200 * DURATION (mm-ss):00-41

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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NOVARTIS
CORPORATE INTELLECTUAL PROPERTY
ONE HEALTH PLAZA 101/2
EAST HANOVER NJ 07936-1080

MAILED
FEB 28 2011
OFFICE OF PETITIONS

In re Patent No. 7,569,698
Issued: August 4, 2009
Application No. 11/205,892
Filed: August 17, 2005
Dkt. No.: ON/4-31672B

: DECISION ON APPLICATION FOR
: PATENT TERM ADJUSTMENT and
: NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION
:

This is a decision on the petition filed September 29, 2009 requesting that the patent term adjustment be increased from 345 days to 697 days.

The request for reconsideration of the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein**.

The patent is entitled to an overall adjustment of 661 days.

The above-identified application issued as U.S. Pat. No. 7,569,698 on August 4, 2009. The patent issued with a patent term adjustment of 345 days. The instant application for patent term adjustment was timely filed September 29, 2009. Patentees assert entitlement to an additional adjustment of 352 days for the Office's failure to issue the patent within three years of the date that the application was filed.

Review of the record reveals that the application is entitled to an adjustment of 454 days pursuant to 37 CFR 1.703(a)(1) plus an adjustment of 352 days pursuant to 37 CFR 1.703(b) less 36 days in connection with the Notice of Appeal filed February 25, 2009 pursuant to 37 CFR 1.703(b)(4) less 109 days of applicant delay pursuant to 37 CFR 1.704.

In view thereof, the patent is entitled to an overall adjustment of 661 days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136. See 37 CFR 1.323(a)(4).

The required $200.00 fee set forth in 37 CFR 1.18(e) has been charged to the authorized deposit account. 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 661 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: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,569,698

DATED : August 4, 2009 **DRAFT**

INVENTOR(S) : Kusters, 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 345 days

Delete the phrase "by 345 days" and insert -- by 661 days --

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS MN 55402-0903

MAILED
SEP 24 2010
OFFICE OF PETITIONS

In re Application of :
FOSTER et al. :
Application No. 11/205,962 : ON APPLICATION FOR
Filed: 08/17/2005 : PATENT TERM ADJUSTMENT
Attorney Docket No. 14283.16US01 :

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT DETERMINATION filed May 24, 2010, 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 676 days, not 347 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]

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).

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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.

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.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON, DC 20044-4300

Mail Date: 10/07/2010

Applicant	: Hiroyuki Shoji	: DECISION ON REQUEST FOR
Patent Number	: 7638904	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/206,226	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/18/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **265** 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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Alexandria, VA 22313-1450
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MAILED

SEP 13 2010

OFFICE OF PETITIONS

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO IL 60610

In re Application of	:	
Tadamitsu Sato	:	ON SECOND REQUEST
Patent Number: 7,589,713	:	FOR RECONSIDERATION OF
Issue Date: 09/15/2009	:	PATENT TERM ADJUSTMENT
Application No. 11/206319	:	and
Filing or 371(c) Date: 08/16/2005	:	NOTICE OF INTENT TO ISSUE
Attorney Docket Number: 9281-5174	:	CERTIFICATE OF CORRECTION

This is a decision on the renewed petition filed on May 19, 2010, which is being treated as a renewed petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand sixty-five (1065) 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 sixty-five (1065) days is **GRANTED**.

On March 29, 2010 the Office mailed a "DECISION ON REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT and NOTICE OF INTENT TO ISSUE CERTIFICATE OF CORRECTION" indicating that the patent term adjustment had been determined to be 1065 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 1344 days.

The Office notes that the decision of April 21, 2010, was issued in error as it accorded patentee 279 more days of patent term adjustment than were warranted. Accordingly, the decision of April 21, 2010, is vacated. The present decision supersedes the decision mailed on April 21, 2010, and corrects the record to reflect the decision mailed March 29, 2010 correctly determined the patent term adjustment of 1065 days.

The Office has determined that the patent term adjustment for the above-identified patent is **1065 days**. The 279 additional days of adjustment will be removed.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand sixty-five (1065) 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 : 7,589,713 B2

DATED : **September 15, 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 1344 days.

Delete the phrase "by 1344 days" and insert – by 1065 days--

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110718

DATE : July 18, 2011

TO SPE OF : ART UNIT 3655

SUBJECT : Request for Certificate of Correction on Patent No.: 7,387,041

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - ST (South Tower) 9A22
Palm location **7590** - Tel. No. (703) 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriated box.

☐ **Approved** All changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☒ **Denied** State the reasons for denial below.

Comments:

The request for issuing the above-identified correction fails to comply with 37 C.F.R. 1.324(b)(2), which requires "a statement from the current named inventors who have not submitted a statement under paragraph (b)(1) of this section either agreeing to the change of inventorship or stating that they have no disagreement in regard to the requested change." In other words, inventor Aidan P. Mooney also needs to provide a statement either agreeing to the change of inventorship or stating that he has no disagreement in regard to the requested change.

/DAVID D LE/
Supervisory Patent Examiner.Art Unit 3655
07/18/2011

UNITED STATES PATENT AND TRADEMARK OFFICE

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HOLTZ, HOLTZ, GOODMAN & CHICK PC
220 Fifth Avenue
16TH Floor
NEW YORK, NY 10001-7708

Mail Date: 01/13/2011

Applicant	: Koji Daifuku	: DECISION ON REQUEST FOR
Patent Number	: 7595139	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/206,490	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/18/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **919** 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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Paper No.

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SEP 28 2010

OFFICE OF PETITIONS

MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

In re Application of :
Abraham et al. :
Application No. 11/206,615 :
Filed: August 18, 2005 :
Patent No. 7,640,103 :
Issued: December 29, 2009 :
Atty Docket No. : 18961US01 :
Title: MULTI-FUNCTION :
APPLIANCE FOR A SATELLITE :
NAVIGATION DATA DISTRIBUTION :
SYSTEM :

DECISION
ON APPLICATION FOR
PATENT TERM ADJUSTMENT

This is a decision on the "REQUEST FOR RECONSIDERATION OF USPTO CALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH*," filed June 4, 2010. Patentee requests that the patent term adjustment be increased from zero (0) days to four (4) days.

The request for reconsideration of the patent term adjustment under 37 C.F.R. § 1.705(b) is **DISMISSED**.

Application No. 11/206,615 matured into U.S. patent No. 7,640,103 on December 29, 2009, with a patent term adjustment of 0 days. On April 29, 2010, Patentee filed a Request for Recalculation of Patent Term Adjustment in view of Wyeth. On May 4, 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 0 days.

Patentee argues that two reductions were improper. Each of these periods that are in dispute involve similar issues, and therefore will be discussed together. Patentee argues that the two-day reduction associated with the filing of a response to a non-final Office action on January 5, 2009 is improper, and that no reduction is warranted. Patentee further argues that the two-day reduction associated with the filing of a response to a

final Office action on June 15, 2009 is improper, and that no reduction is warranted.

Rule 1.704(b) sets forth, *in pertinent part*:

> an applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of three months that are taken to reply to any notice or action by the Office making any rejection, objection, argument, or other request, measuring such three-month period from the date the notice or action was mailed or given to the applicant, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date that is three months after the date of mailing or transmission of the Office communication notifying the applicant of the rejection, objection, argument, or other request and ending on the date the reply was filed. The period, or shortened statutory period, for reply that is set in the Office action or notice has no effect on the three-month period set forth in this paragraph.

A non-final Office action was mailed on October 3, 2008, and a response was not received until January 5, 2009, which is three months and two days later. As such, a reduction of two days was assessed. Patentee has argued that this is improper, that no reduction was warranted, and has cited to 37 CFR § 1.7(a). It is noted that January 3, 2009 fell on a Saturday, and as such, January 5, 2009 was the next succeeding business day.

Similarly, a final Office action was mailed on March 13, 2009, and a response was not received until June 15, 2009, which is three months and two days later. As such, a reduction of two days was assessed. Patentee has argued that this is improper, that no reduction was warranted, and has cited to 37 CFR § 1.7(a). It is noted that June 13, 2009 fell on a Saturday, and as such, June 15, 2009 was the next succeeding business day.

However, Patentee will note that 35 U.S.C. 154(b)(2)(C)(ii)[1] does not require that a reply be filed in the Office within its three (3) month grace period, but simply specifies that there is a patent term adjustment reduction if a reply is not filed within this three (3) month period. Therefore, the "carry-over"

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[1] "With respect to adjustments to patent term made under the authority of paragraph (1)(B), an applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of 3 months that are taken to respond to a notice from the Office making any rejection, objection, argument, or other request, measuring such 3-month period from the date the notice was given or mailed to the applicant."

provisions of 35 U.S.C. § 21(b)[2] does not apply to the three (3) month period in 35 U.S.C. 154(b)(2)(C)(ii).

It follows that each to the two aforementioned two-day reductions is warranted.

Moreover, a notice of appeal was filed on June 15, 2009, and a notice of allowance was mailed on August 20, 2009. The 67 days of the over three year period consumed by appellate review, beginning on June 15, 2009 and ending on August 20, 2009, is not included in the B delay. See 35 U.S.C. § 154(b)(1)(B)(ii).

As such, the patent term adjustment is increased by zero (155 days of examination delay plus zero B-delay (20 days over three years minus the aforementioned excluded 67 days minus zero overlap) minus 157 days of applicant delay) days, not 4 days.

In view thereof, the patent term adjustment of 0 days as set forth in the mailing of May 4, 2010 is correct.

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.

The Office acknowledges submission of the $200.00 fee set forth in 37 C.F.R. § 1.18(e). No additional fees are required.

Any response to this decision should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail,[3] hand-delivery,[4] or facsimile.[5] Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web.[6]

A certificate of correction is not required, as this patent issued with a patent term adjustment of zero days, which is correct.

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2 "When the day, or the last day, for taking any action or paying any fee in the United States Patent and Trademark Office falls on Saturday, Sunday, or a Federal holiday within the District of Columbia, the action may be taken, or fee paid, on the next succeeding secular or business day."

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

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3225.[7]

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

7 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No.

MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

MAILED

JUL 29 2011

OFFICE OF PETITIONS

In re Application of	:	
Abraham et al.	:	DECISION ON RENEWED
Application No. 11/206,615	:	APPLICATION FOR
Filed: August 18, 2005	:	PATENT TERM ADJUSTMENT
Patent No. 7,640,103	:	
Issued: December 29, 2009	:	
Atty Docket No. : 18961US01	:	
Title: MULTI-FUNCTION	:	
APPLIANCE FOR A SATELLITE	:	
NAVIGATION DATA DISTRIBUTION	:	
SYSTEM	:	

This is a decision on the "RESPONSE TO DECISION ON APPLICATION FOR PATENT TERM ADJUSTMENT," filed October 28, 2010. Patentee requests that the patent term adjustment be increased from zero (0) days to two (2) days.

The request for reconsideration of the patent term adjustment under 37 C.F.R. § 1.705(b) is **GRANTED**.

The $200.00 fee that was included with this renewed petition is not required, and will be refunded to Deposit Account No. 13-0017 in due course.

Application No. 11/206,615 matured into U.S. patent No. 7,640,103 on December 29, 2009, with a patent term adjustment of 0 days. On April 29, 2010, Patentee filed a Request for Recalculation of Patent Term Adjustment in view of Wyeth. On May 4, 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 0 days.

An original petition pursuant to 37 C.F.R. § 1.705(b) was filed on June 4, 2010, where Patentee argued that two reductions were improper. Patentee argued that the two-day reduction associated with the filing of a response to a non-final Office action on January 5, 2009 is improper, and that no reduction is warranted. Patentee further argued that the two-day reduction associated with the filing of a response to a final Office action on June 15, 2009 is improper, and that no reduction is warranted. Patentee requested that the patent term adjustment be increased from zero (0) days to four (4) days.

The original petition pursuant to 37 C.F.R. § 1.705(b) was dismissed via the mailing of a decision on September 28, 2010, which indicated that this patent correctly issued with a patent term adjustment of zero (0) days.

The decision on the original petition set forth, *in pertinent part*:

> A non-final Office action was mailed on October 3, 2008, and a response was not received until January 5, 2009, which is three months and two days later. As such, a reduction of two days was assessed. Patentee has argued that this is improper, that no reduction was warranted, and has cited to 37 CFR § 1.7(a). It is noted that January 3, 2009 fell on a Saturday, and as such, January 5, 2009 was the next succeeding business day.
>
> Similarly, a final Office action was mailed on March 13, 2009, and a response was not received until June 15, 2009, which is three months and two days later. As such, a reduction of two days was assessed. Patentee has argued that this is improper, that no reduction was warranted, and has cited to 37 CFR § 1.7(a). It is noted that June 13, 2009 fell on a Saturday, and as such, June 15, 2009 was the next succeeding business day.

With this renewed petition, Patentee again disputes the two periods of reduction of two days entered for applicant delays, pursuant to 35 U.S.C. § 154(b)(2)(C) and 37 CFR 1.704(b). These two reductions have been reconsidered, and it is determined that entries of reductions for these replies timely filed pursuant to 35 U.S.C. § 21(b) are not warranted. Accordingly, the two periods of reduction, each of two days, are being removed.

The patent is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **two (2) days.**

Telephone inquiries specific to this matter should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,640,103 B2

DATED : **Dec. 29, 2009** **DRAFT**

INVENTOR(S) : Abraham 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 0 days

Delete the phrase "by 0 days" and insert – by 2 days--

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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Paper No.

SHERIDAN ROSS PC
1560 BROADWAY
SUITE 1200
DENVER CO 80202

MAILED
AUG 20 2010
OFFICE OF PETITIONS

In re Patent No. 7,611,208	: DECISION ON REQUEST
Day et al.	: FOR
Issue Date: 11/03/2009	: RECONSIDERATION OF
Application Number: 11/206,659	: PATENT TERM ADJUSTMENT
Filing or 371(c) Date: 08/17/2005	: and
Atty Docket No.	: NOTICE OF INTENT TO ISSUE
5253-1	: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on May 19, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand eleven (1011) 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 eleven (1011) days is **GRANTED**.

No fee is due with the subject request for reconsideration. The petition fee will be refunded to counsel's deposit account.

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 eleven (1011)** days.

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

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,611,208 B2

DATED : **Nov. 3, 2009**

INVENTOR(S) : Day et al.

DRAFT

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 601 days.

Delete the phrase "by 601 days" and insert – by 1011 days--

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 10/5/2011

TO SPE OF : ART UNIT 2438

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/206701 Patent No.: 7958346B2

CofC mailroom date: 9/29/2011

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: Col. 16 line 15 - Claim 18 only

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 certificate of correction is approved.

/Taghi Arani/

SPE

2438

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

ADVANTEDGE LAW GROUP, LLC
922 W. Baxter Dr.
Suite 100
South Jordan UT 84095

MAILED

AUG 17 2010

OFFICE OF PETITIONS

In re Application of	:	
Sobel et al.	:	
Application No. 11/206896	:	ON REQUEST FOR
Filing or 371(c) Date: 08/18/2005	:	RECONSIDERATION OF
Atty Docket No.:	:	PATENT TERM ADJUSTMENT
4001-0107	:	

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 1313 days, not 742 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).

The request is **DISMISSED**.

Applicants are advised that § 1.705(b) provides the avenue before the Office for requesting reconsideration of the patent term adjustment indicated in the notice of allowance. See § 1.702-1.705. Moreover, § 1.705(b) provides that:

> An application for patent term adjustment under this section must be filed no later than the payment of the issue fee but may not be filed earlier than the date of mailing of the notice of allowance. An application for patent term adjustment under this section must be accompanied by:
>
> (1) The fee set forth in § 1.18(e) ...

The instant application for patent term adjustment was timely filed[1] however, neither the fee under § 1.18(e) nor a proper general authorization to charge any required fees[2], accompanied the

[1] PALM records show that the Issue Fee payment was received in the Office on June 2, 2010

application for patent term adjustment. Accordingly, the request is dismissed for failure to comply with the requirement of paragraph (b)(1) to submit the fee under §1.18(e).

However, with respect to Office delay in taking more than 3 years to issue the patent, rather than file the request for reconsideration of Patent Term Adjustment 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 pursuant to 37 CFR 1.705(d). The USPTO notes that it does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent and accordingly, 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.

The Office of Data Management has been advised of this decision and directed to go forward with processing of this application into a patent.

Telephone inquiries specific to this matter should be directed to Attorney Derek Woods, at (571) 272-3232.

Anthony Knight
Supervisor
Office of Petitions

[2] The Issue Fee Transmittal Form contained a general authorization to charge any required fees; however, the authorization was signed by an individual who is not an authorized user listed on the deposit account.

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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EDWARD D GRIEFF
AMYLIN PHARMACEUTICALS INC
9360 TOWNE CENTRE DRIVE
SAN DIEGO CA 92121

MAILED

NOV 08 2011

OFFICE OF PETITIONS

In re Application	:	
Levy, et al.	:	
Application No. 11/206,903	:	DECISION ON APPLICATION
Filed: August 17, 2005	:	FOR PATENT TERM ADJUSTMENT
Atty Docket No. 0701US-CIP2	:	

This is a decision on the "REQUEST FOR CORRECTION OF PATENT TERM ADJUSTMENT", filed November 2, 2011. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from two hundred eighty-two (282) days to two hundred eighty-five (285) days.

The application for patent term adjustment is **GRANTED.**

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is **two hundred eighty-five (285) days.** A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On August 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 (PTA) to date is two hundred eighty-two (282) days. On

November 2, 2011, Applicants timely[1] submitted the instant application for patent term adjustment.

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 282 days based on 447 days of "A" delay, reduced by 165 days of Applicant delay. Applicants assert that they were erroneously accorded Applicant delay of 3 days for filing a reply to a July 10, 2009 Office action on October 13, 2009.

A review of the file reveals that October 13, 2009 was the first business day in which a reply could have been timely filed under 37 CFR 1.7(a). As such, applicants' reply was timely filed, and their argument that they should not have been assessed any days of delay under 37 CFR 1.704(b) is considered persuasive.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is **two hundred eighty-five (285) days** (447 (406+36+5) days of PTO delay, reduced by 162 (28+71+31+32) 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

Enc: updated PAIR screen

[1] Applicants filed the application for patent term adjustment together with the payment of the issue fee.

Patent Term Adjustments

PTA/PTE Information | Patent Term Adjustment | Patent Term Extension

Application Number*: Search | Explanation of PTA Calculation | Explanation of PTE Calculation

PTA Calculations for Application: 11206903

Application Filing Date	08/17/2005	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	447
A Delays	447	PTO Manual Adjustment	3
B Delays	0	Applicant Delay (APPL)	165
C Delays	0	Total PTA (days)	285

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
133	11/04/2011		P028	Adjustment of PTA Calculation by PTO	3		0
126	08/11/2011		MN/=.	Mail Notice of Allowance			0
125	08/09/2011		OAR	Office Action Review			0
124	08/09/2011		OAR	Office Action Review			0
123	08/09/2011		IREV	Issue Revision Completed			0
122	08/09/2011		DVER	Document Verification			0
121	08/09/2011		N/=.	Notice of Allowance Data Verification Completed			0
120	08/04/2011		FIDC	Finished Initial Data Capture			0
119	08/04/2011		DOCK	Case Docketed to Examiner in GAU			0
118	08/01/2011		EX.A	Examiner's Amendment Communication			0
117	08/01/2011		CNTA	Allowability Notice			0
110	07/19/2011		ABN9	Disposal for a RCE / CPA / R129			0
113	07/14/2011		IDSC	Information Disclosure Statement considered			0
112	07/14/2011		M844	Information Disclosure Statement (IDS) Filed			0
111	07/14/2011		RCEX	Request for Continued Examination (RCE)			0
109	07/14/2011		WIDS	Information Disclosure Statement (IDS) Filed			0
108	07/14/2011		BRCE	Workflow - Request for RCE - Begin			0
107	05/19/2011		CRFT	Sequence Forwarded to Pubs on Tape			0
105	05/04/2011		R1021	Receipt into Pubs			0
106	05/02/2011		EIDC	Export to Initial Data Capture			0
104	04/29/2011		ELC_RVW	Electronic Review			0
103	04/29/2011		EML_NTF	Email Notification			0
102	04/29/2011		MN/=.	Mail Notice of Allowance			0
96	04/11/2011		IREV	Issue Revision Completed			0
95	04/11/2011		DVER	Document Verification			0
94	04/11/2011		N/=.	Notice of Allowance Data Verification Completed			0
101	04/05/2011		OAR	Office Action Review			0
100	04/05/2011		OAR	Office Action Review			0
99	04/05/2011		OAR	Office Action Review			0
98	04/05/2011		OAR	Office Action Review			0
97	04/05/2011		OAR	Office Action Review			0
93	04/05/2011		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
92	04/05/2011		CNTA	Allowability Notice			0
88	02/04/2011		FWDX	Date Forwarded to Examiner			0
87	01/31/2011	12/30/2010	A...	Response after Non-Final Action		32	85
86	01/31/2011		XT/G	Request for Extension of Time - Granted			0
85	09/30/2010		MCTNF	Mail Non-Final Rejection			0
84	09/28/2010		CTNF	Non-Final Rejection			0
80	06/22/2010		FWDX	Date Forwarded to Examiner			0
77	06/22/2010		ABN9	Disposal for a RCE / CPA / R129			0
83	06/18/2010		IDSC	Information Disclosure Statement considered			0
82	06/18/2010		RCAP	Reference capture on IDS			0
81	06/18/2010		M844	Information Disclosure Statement (IDS) Filed			0
79	06/18/2010		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE			0
78	06/18/2010	05/18/2010	RCEX	Request for Continued Examination (RCE)		31	73
76	06/18/2010		XT/G	Request for Extension of Time - Granted			0
75	06/18/2010		WIDS	Information Disclosure Statement (IDS) Filed			0
74	06/18/2010		BRCE	Workflow - Request for RCE - Begin			0
73	02/18/2010	02/13/2010	MCTFR	Mail Final Rejection (PTOL - 326)	5		69
72	02/16/2010		CTFR	Final Rejection			0
70	12/10/2009		FWDX	Date Forwarded to Examiner			0
69	10/13/2009	10/10/2009	A...	Response after Non-Final Action		3	67
68	07/10/2009		MW/AC	Mail Notice of Withdrawn Action			0
67	07/10/2009		MCTNF	Mail Non-Final Rejection			0
66	07/10/2009		CTNF	Non-Final Rejection			0

65	07/10/2009		FWDX	Date Forwarded to Examiner			0
64	07/10/2009		W/AC	Withdrawing/Vacating Office Action Letter			0
63	07/09/2009		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
62	04/24/2009	03/19/2009	MCTFR	Mail Final Rejection (PTOL - 326)	36		56
61	04/24/2009		CTFR	Final Rejection			0
57	03/10/2009		FWDX	Date Forwarded to Examiner			0
56	11/19/2008		A...	Response after Non-Final Action			0
60	10/22/2008		IDSC	Information Disclosure Statement considered			0
55	10/22/2008		RCAP	Reference capture on IDS			0
54	10/22/2008		WIDS	Information Disclosure Statement (IDS) Filed			0
53	08/19/2008		MCTNF	Mail Non-Final Rejection			0
52	08/18/2008		CTNF	Non-Final Rejection			0
46	06/18/2008		IDSC	Information Disclosure Statement considered			0
44	06/18/2008		WIDS	Information Disclosure Statement (IDS) Filed			0
43	06/13/2008		FWDX	Date Forwarded to Examiner			0
42	05/08/2008	02/27/2008	ELC.	Response to Election / Restriction Filed		71	39
41	04/08/2008		NINA	Mail Notice of Informal or Non-Responsive Amendment			0
40	03/24/2008		FWDX	Date Forwarded to Examiner			0
39.1	02/27/2008		A.I.	Informal or Non-Responsive Amendment after Examiner Action			0
39	02/27/2008		ELC.	Response to Election / Restriction Filed			0
38	02/27/2008		XT/G	Request for Extension of Time - Granted			0
37	11/27/2007	10/17/2006	MCTRS	Mail Restriction Requirement	406		0.5
36	11/26/2007		CTRS	Restriction/Election Requirement			0
35	10/11/2007		LET.	Miscellaneous Incoming Letter			0
47	08/22/2007		IDSC	Information Disclosure Statement considered			0
34	08/22/2007		M844	Information Disclosure Statement (IDS) Filed			0
33	08/22/2007		WIDS	Information Disclosure Statement (IDS) Filed			0
31	12/28/2006		PG-ISSUE	PG-Pub Issue Notification			0
30	11/18/2006		DOCK	Case Docketed to Examiner in GAU			0
29	10/04/2006		TSSCOMP	IFW TSS Processing by Tech Center Complete			0
18	09/21/2006		WROIPE	Application Return from OIPE			0
17	09/21/2006		COMP	Application Is Now Complete			0
16	09/21/2006		W/OA	Pre-Exam Office Action Withdrawn			0
15	09/21/2006		ROIPE	Application Return TO OIPE			0
14	09/21/2006		OIPE	Application Dispatched from OIPE			0
13	09/21/2006		COMP	Application Is Now Complete			0
28	09/20/2006		LET.	Miscellaneous Incoming Letter			0
19	09/20/2006		LET.	Miscellaneous Incoming Letter			0
27	04/03/2006		A.PE	Preliminary Amendment			0
8	02/02/2006		CRFF	Error(s) in CRF Corrected by STIC			0
26	01/18/2006		C602	Oath or Declaration Filed (Including Supplemental)			0
25	01/18/2006		A.PE	Preliminary Amendment			0
12	01/18/2006	12/21/2005	ADDFLFEE	Additional Application Filing Fees		28	6
10	01/18/2006		SEQLIST	A set of symbols and procedures, provided to the PTO on a set of computer listings, that describe in			0
9	01/18/2006		OATHDECL	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic			0
45	01/13/2006		IDSC	Information Disclosure Statement considered			0
24	01/13/2006		RCAP	Reference capture on IDS			0
23.7	01/13/2006		M844	Information Disclosure Statement (IDS) Filed			0
23	01/13/2006		WIDS	Information Disclosure Statement (IDS) Filed			0
48	12/01/2005		IDSC	Information Disclosure Statement considered			0
22	12/01/2005		RCAP	Reference capture on IDS			0
21.7	12/01/2005		M844	Information Disclosure Statement (IDS) Filed			0
21	12/01/2005		WIDS	Information Disclosure Statement (IDS) Filed			0
20	12/01/2005		A.PE	Preliminary Amendment			0
6	09/21/2005		INCD	Notice Mailed--Application Incomplete--Filing Date Assigned			0
5	09/17/2005		L128	Cleared by L&R (LARS)			0
4	09/01/2005		L198	Referred to Level 2 (LARS) by OIPE CSR			0
3	09/01/2005		CLSS	CASE CLASSIFIED BY OIPE			0
2	08/26/2005		SCAN	IFW Scan & PACR Auto Security Review			0
11	08/17/2005		CLAIM	Claim Preliminary Amendment			0
1	08/17/2005		IEXX	Initial Exam Team nn			0
0.5	08/17/2005		EFILE	Filing date			0

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Date Mailed : 01/31/11

Patent No. : 7730094 B2
Patent Issued : 06/01/10
Docket No. : **13768.1723.1**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322.

Respecting the alleged errors in the documents filed on 12/23/10; 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) 305-8309

WORKMAN NYDEGGER/MICROSOFT
1000 EAGLE GATE TOWER
60 EAST SOUTH TEMPLE
SALT LAKE CITY UT 84111

LMN

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 01/14/11

TO SPE OF : ART UNIT 2158

SUBJECT : Request for Certificate of Correction for Appl. No.: 11207034 Patent No.: 7730094

CofC mailroom date:
12/23/10

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

[redacted]

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☐ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- **xDenied** — State the reasons for denial below.

Comments: It's required further consideration.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

/Mohammad Ali/ 2158

SPE Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAILED

APR 12 2011

OFFICE OF PETITIONS

CHAPIN INTELLECTUAL PROPERTY LAW, LLC
WESTBOROUGH OFFICE PARK
1700 WEST PARK DRIVE, SUITE 280
WESTBOROUGH MA 01581

In re Application of	:	
Xiangrong CAI et al.	:	
Application No. 11/207,036	:	DECISION ON PETITION
Filed: August 18, 2005	:	
Attorney Docket No. AVA-106	:	

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 s to timely pay the issue on or before December 16, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed September 16, 2010, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on December 17, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,510.00, (2) the petition fee of $1,620.00; and (3) a proper statement of unintentional delay. Accordingly, the issue fee is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4231.

This application is being referred to the Office of Data Management for processing into a patent.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

PAPER NO.:

DATE : 9/17/10

TO SPE OF : ART UNIT: 2811 Attn: LI MEIYA

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/207116 Patent No.: 7772680

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.
Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square Building (RSQ)
2800 South Randolph Street, Suite 9XXXX
Arlington, VA 22206
PALM Location 7580

Tasneem Siddiqui

Certificates of Correction Branch
703-756-1593

Thank You for Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- [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

~~LYNNE GURLEY~~
SUPERVISORY PATENT EXAMINER

Lynne A. Gurley
SPE

2811
Art Unit

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

SEP 08 2010

OFFICE OF PETITIONS

In re Patent No. 7,653,036
Issued: January 26, 2010
Application No. 11/207,262
Filing Date: August 18, 2005
Dkt. No.: 16583US02

: ON APPLICATION FOR PATENT TERM
: ADJUSTMENT and NOTICE OF INTENT
: TO ISSUE CERTIFICATE OF
: CORRECTION
:

This is a decision on the petition filed on June 10, 2010, seeking reconsideration of the decision mailed May 10, 2010, requesting that the patent term adjustment be increased from 515 days to 516 days.

To the extent patentee seeks reconsideration of the decision mailed May 10, 2010, the petition is **GRANTED**.

To the extent that patentee seeks an increase in the patent term adjustment from 515 days to 516 days, the petition is **DISMISSED**.

The above-identified application matured into U.S. Patent No. 7,653,053 on January 26, 2010. The request for reconsideration was timely submitted within one month of the mail date of the May 10, 2010 decision. Patentees appear to assert entitlement to a "B" delay of 116 days, which would yield an overall patent term adjustment of 516 days rather than 515 days.

The calculation of adjustment, along with patentee's arguments, has been carefully reviewed, and no error has been found.

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period begins on August 19, 2008 and ends on December 11 2008, the day before the RCE was filed, and not December 12, 2008, the day of filing of the RCE, as perhaps calculated by patentees. See, 35 U.S.C. 154(b)(1)(B)(i). Thus, the over 3 year period is 115 days, not 116 days, and the overall patent term adjustment is 515 days, as indicated by the decision mailed May 10, 2010.

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.

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 515 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 : 7,653,036

DATED : **January 26, 2010** **DRAFT**

INVENTOR(S) : Cohen

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 400 days

Delete the phrase "by 400 days" and insert – by 515 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

Date February 16, 2012

Patent No. :7517331
Inventor(s): :Holger REINHARDT et al.
Issued :April 14, 2009
Title :ELASTIC KNEE-JOINT BANDAGE

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

Birch, Steward, Kolasch & Birch, LLP
8110 Gatehouse Road, Suite 100 East
P.O. Box 747
Falls Church, VA 22040-0747

/arg

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Paper No.

J. Michael Neary
Neary Law Office
53939 Pine Grove Road
La Pine OR 97739

MAILED
SEP 12 2011
OFFICE OF PETITIONS

In re Application of	:	
Christopher W. Gabrys	:	
Application No. 11/207,375	:	DECISION ON SECOND RENEWED
Filed: August 18, 2005	:	PETITION PURSUANT TO
Attorney Docket No.: RM2274US	:	37 C.F.R. § 1.137(B)
Title: OPTIMIZED AIR CORE ARMATURE	:	

This is a decision on the second renewed petition pursuant to 37 C.F.R. § 1.137(b), filed July 27, 2011, to revive the above-identified application.

This second renewed petition pursuant to 37 C.F.R. § 1.137(b) is **DISMISSED.**

The above-identified application became abandoned for failure to submit the publication fee in a timely manner in reply to the Notice of Allowance and Issue Fee Due (notice), mailed June 2, 2008, which set a shortened statutory period for reply of three months.[1] No extensions of time are permitted for transmitting publication fees.[2] Accordingly, the above-identified application became abandoned on September 3, 2008. A Notice of Abandonment was mailed on December 5, 2008.

An original petition pursuant to 37 C.F.R. § 1.181(a) was filed on December 8, 2008, and was dismissed via the mailing of a decision on January 16, 2009.

A renewed petition pursuant to 37 C.F.R. § 1.181(a) was filed on March 16, 2009, and was dismissed via the mailing of a decision on June 17, 2009.

1 The issue fee was received on June 17, 2008.
2 See 37 C.F.R. § 1.211(e).

A second renewed petition pursuant to 37 C.F.R. § 1.181(a) was filed on August 17, 2009, and was dismissed via the mailing of a decision on September 8, 2009.

A third renewed petition pursuant to 37 C.F.R. § 1.181(a) and an original petition pursuant to 37 C.F.R. § 1.137(b) were concurrently filed on November 9, 2009, and were each dismissed via the mailing of a single decision on December 22, 2009, which set forth, *in pertinent part*:

> **Any future filings that do not include a complete petition under 37 C.F.R. § 1.137(b) (including the petition fee, the required statement of unintentional delay, and the required reply, *i.e.* the publication fee) may be considered an act of intentional delay**. (Emphasis included)
>
> Decision of December 22, 2009.

A renewed petition pursuant to 37 C.F.R. § 1.137(b) was filed on February 22, 2010, where the attorney of record asserted that the publication "fee was paid by a Credit Card Payment Form in the amount of $1110.00, and that reference to that payment was made in the first full paragraph on page 2 of the Petition."

A Request for More Information was mailed on June 21, 2010 which set forth, *in pertinent part*:

> The electronic record has been reviewed, and it is noted that the fees were not received due to the fact that the credit card number which Petitioner provided is invalid.
>
> Petitioner (the attorney of record) is hereby provided with a period of **ONE MONTH** to submit the required petition and publication fees to the Office. **This time period is not extendable.** Said fees should be provided along with a letter entitled "Response to Inquiry." After the decision on the response to this request for more information, no further reconsideration or review of the matter will be undertaken by the Commissioner.
>
> The mailing of this decision marks the fifth time that Petitioner has been informed of the need to submit the publication fee, and the second time that he has been informed of the need to submit the petition fee. This is the last opportunity Petitioner will be provided with to submit these two required fees. **The failure to submit both the publication and petition fees to the Office within one month of the mailing of this decision will be considered an intentional effort to delay the revival of this application, and a final agency action denying the revival request will be issued.**
>
> Emphases included. Request for More Information of June 21, 2010, page 2.

This second renewed petition pursuant to 37 C.F.R. § 1.137(b) was filed by the sole inventor on July 27, 2011. The inventor

has included the petition fee and the proper statement of unintentional delay.

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.

Requirements two and three of Rule 1.137(b) have been met. The fourth requirement of Rule 1.137(b) is not applicable, as a terminal disclaimer is not required.[3]

The first requirement of Rule 1.137(b) 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.[4] In order for the application to be revived, Petitioner must submit a reply which satisfies 37 C.F.R. § 1.137(b)(1) (*i.e.*, the publication fee, which is currently set at $300).

The inventor has erroneously asserted that the publication fee was submitted to the Office on November 9, 2009. Such is not the case. The publication fee has not been submitted to the Office: as set forth above, the attorney of record included an invalid credit card number to the Office, and as such, the publication fee has not been received.

The mailing of this decision marks the seventh time that the Office has indicated the need to submit the publication

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3 See Rule 1.137(d).
4 See MPEP § 711.03(c).

fee.[5] This is the last opportunity the Office will provide to submit this required fee. The failure to submit the $300 publication fee to the Office on third renewed petition will be considered an intentional effort to delay the revival of this application, and a final agency action denying the revival request will be issued.

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 "Third Renewed Petition Under 37 C.F.R. § 1.137(b)." This is not a final agency action within the meaning of 5 U.S.C § 704.

The third renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail,[6] hand-delivery,[7] or facsimile.[8] Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web.[9]

If responding by mail, Petitioner is advised not to place the undersigned's name on the envelope. Only the information that appears in the footnote should be included - adding anything else to the address will delay the delivery of the response to the undersigned.

It is noted that the address listed on the petition differs from the address of record. The application file does not indicate a change of correspondence address has been filed in this case, although the address given on the petition differs from the address of record. If Petitioner desires to receive future correspondence regarding this application, the change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to Petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary. Petitioner will not receive future correspondence related to this application unless Change of Correspondence Address, Patent Form (PTO/SB/122) is submitted for the above-identified application. For Petitioner's convenience, a blank

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5 See the notice of allowance of June 17, 2008, the decision of January 16, 2009, the decision of June 17, 2009, the decision of September 8, 2009, the decision of December 22, 2009, and the decision of June 21, 2010.
6 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
7 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
8 (571) 273-8300: please note this is a central facsimile number.
9 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html

Change of Correspondence Address, Patent Form (PTO/SB/122), may be found at http://www.uspto.gov/web/forms/sb0122.pdf.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[10]

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

cc: Christopher W. Gabrys
1970 Sierra Oaks Ct.
Reno, NV 89521

10 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

HAYNES AND BOONE, LLP
IP SECTION
2323 VICTORY AVENUE
SUITE 700
DALLAS TX 75219

MAILED

OCT 14 2010

OFFICE OF PETITIONS

In re Application of :
Diana et al. :
Application No. 11/207,571 : ON PETITION
Filed: August 19, 2005 :
Attorney Docket No. M-15954 US :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed September 13, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment, (2) the petition fee, and (3) a proper statement of unintentional delay.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed solely to the address currently of record until such time as appropriate instructions are received to the contrary.

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center AU 3691 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

cc: JONATHAN W. HALLMAN
18100 VON KARMAN AVENUE, SUITE 750
IRVINE, CA 92612

UNITED STATES PATENT AND TRADEMARK OFFICE

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HAYNES AND BOONE, LLP
IP SECTION
2323 VICTORY AVENUE
SUITE 700
DALLAS TX 75219

MAILED
FEB 16 2011
OFFICE OF PETITIONS

In re Application of :
Marc Diana et al :
Application No. 11/207,571 : DECISION GRANTING PETITION
Filed: August 19, 2005 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. M-15954 US :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed February 15, 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 10, 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 3691 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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FEB 15 2011

OFFICE OF PETITIONS

FISH & RICHARDSON P.C.
PO BOX 1022
MINNEAPOLIS MN 55440-1022

In re Patent No. 7,529,739 : DECISION ON PATENT TERM
Issued: May 5, 2009 : ADJUSTMENT and NOTICE OF INTENT
Application No. 11/207,585 : TO ISSUE CERTIFICATE OF
Filed: August 19, 2005 : CORRECTION
Dkt. No.: 16113-1279001/GP-594-00 :

This is a decision on the petition filed on July 2, 2009 requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by 609 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 **GRANTED TO THE EXTENT INDICATED HEREIN**.

The correct patent term adjustment is 524 days (609 days of adjustment pursuant to 37 CFR 1.702 minus 85 days of applicant delay). Applicant acknowledges the applicant delay of 85 days. Thus, it is presumed that applicant neglected to deduct the 85 days of applicant delay from the overall adjustment of 609 days.

The required $200.00 fee set forth in 37 CFR 1.18(e) has been charged to the authorized deposit account.

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 **524** days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136. See 37 CFR 1.323(a)(4).

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under

35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,529,739

DATED : **May 5, 2009** **DRAFT**

INVENTOR(S) : Raub, 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 265 days

Delete the phrase "by 265 days" and insert – by 524 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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SHEPPARD, MULLIN, RICHTER & HAMPTON LLP
390 LYTTON AVENUE
PALO ALTO, CA 94301

MAILED

MAR 28 2011

OFFICE OF PETITIONS

In re Application of :
BENNETT, Dominic et al. :
Application No. 11/207,590 : DECISION ON PETITION
Filed: August 19, 2005 : TO WITHDRAW
Attorney Docket No. **4001-0007** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 03, 2011.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Sheppard, Mullin, Ritcher & Hampton LLP has been revoked by the assignee of the patent application on February 08, 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 the undersigned at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **DAVIDSON BERQUIST JACKSON & GOWDEY, LLP**
ATTN: CLARIA/DR. BRIAN SIRITZKY, ESQ.
4300 WILSON BLVD., 7TH FLOOR
ARLINGTON VA 22203

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Decision Date : December 1, 2011

In re Application of :

Dominic Bennett

Application No : 11207590

Filed : 19-Aug-2005

Attorney Docket No : 4001-0007

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY/AGENTOF RECORD

This is an electronic decision on the Request to Withdraw as attorney or agent of record under 37 CFR§ 1.36(b), filed December 1, 2011

The request is **APPROVED**

The request was signed by Brian Siritzky (registration no. 37497) on behalf of all attorneys/agents associated with Customer Number 91944 . All attorneys/agents associated with Customer Number 91944 have been withdrawn.

Since there are no remaining attorneys of record, all future communications from the Office will be directed to the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71, with Customer number 86636 .

As a reminder, requester is required to inform the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71 of the electronically processed petition.

Telephone inquiries concerning this decision should be directed to the Patent Electronic Business Center (EBC) at 866-217-9197.

Office of Petitions

Doc Code: PET.AUTO **Document Description: Petition automatically granted by EFS-Web**	PTO/SB/83 U.S. Patent and Trademark Office Department of Commerce

Electronic Petition Request	**REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS**
Application Number	11207590
Filing Date	19-Aug-2005
First Named Inventor	Dominic Bennett
Art Unit	2162
Examiner Name	JEAN FLEURANTIN
Attorney Docket Number	4001-0007
Title	Method and apparatus for responding to end-user request for information-personalization

◉ Please withdraw me as attorney or agent for the above identified patent application and the practitioners of record associated with Customer Number: 91944

The reason(s) for this request are those described in 37 CFR:

10.40(b)(4)

Certifications

☒ I/We have given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intend to withdraw from employment

☒ I/We have delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled

☒ I/We have notified the client of any responses that may be due and the time frame within which the client must respond

Change the correspondence address and direct all future correspondence to:
The address of the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71, associated with Customer Number: 86636

I am authorized to sign on behalf of myself and all withdrawing practitioners.

Signature	/Brian Siritzky/
Name	Brian Siritzky
Registration Number	37497

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P.O. Box 1450
Alexandria, VA 22313-1450
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CHRISTOPHER C. WINSLADE
MCANDREWS, HELD & MALLOY, LTD.
34th Floor
500 West Madison St.
Chicago IL 60661

MAILED

SEP 08 2011

OFFICE OF PETITIONS

In re Application of :
Ptasinski et al. :
Application No. 11/207,658 : ON APPLICATION FOR
Filed: August 18, 2005 : PATENT TERM ADJUSTMENT
Docket No. 16584US02 :

This is in response to petition under 37 CFR 1.705(b), filed August 19, 2011. Applicants submit that the patent term adjustment to be indicated on the patent should be four hundred twenty-eight (428) days, not three hundred fifty-eight (358) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment.

The application for patent term adjustment is **DISMISSED.**

On May 26, 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 358 days. Applicants argue the Office erred by failing to enter an adjustment for the delay in issuing the patent due to successful appellate review. Applicants' argument has been considered, but not found persuasive.

37 CFR 1.702(e) provides, in pertinent part:

> § 1.702 Grounds for adjustment of patent term due to examination delay under the Patent Term Guarantee Act of 1999 (original applications, other than designs, filed on or after May 29, 2000).

> (e) Delays caused by successful appellate review. 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 review by the Board of Patent Appeals and Interferences under 35 U.S.C. 134 or by a Federal court under 35 U.S.C. 141 or 145, if the patent was issued under a decision in the review reversing an adverse determination of patentability. If an application is remanded by a panel of the Board of Patent Appeals and Interferences and the remand is the last action by a panel of the Board of Patent Appeals and Interferences prior to the mailing of a notice of allowance under 35 U.S.C. 151 in the application, the remand shall be considered a decision by the Board of Patent Appeals and Interferences as that phrase is used in 35 U.S.C. 154(b)(1)(A)(iii), a decision in the review reversing an adverse determination of patentability as that phrase is used in 35 U.S.C. 154(b)(1)(C)(iii), and a final decision in favor of the applicant under § 1.703(e). A remand by a panel of the Board of Patent Appeals and Interferences shall not be considered a decision in the review reversing an adverse determination of patentability as provided in this paragraph if there is filed a request for continued examination under 35 U.S.C. 132(b) that was not first preceded by the mailing, after such remand, of at least one of an action under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151.

As noted above, 37 CFR 1.702(e) was amended to indicate that certain remands by the Board of Patent Appeals and Interferences shall be considered "a decision in the review reversing an adverse determination of patentability" for patent term adjustment purposes. This portion of the rule was effective May 24, 2004.

Unfortunately, the current rule does not allow a patent term adjustment for the situation presented in the petition. After a notice of appeal of the final rejection to the Board of Patent Appeals and Interferences was filed on March 18, 2011, but before any decision was issued by the Board, the Office reopened prosecution and issued a Notice of Allowance on May 26, 2011.

Applicants argue that since the Office has ***proposed*** rules that the Office should treat a decision in a pre-appeal brief review reopening prosecution and issuing an Office action or a notice of allowance as a "decision in the review reversing an adverse determination of patentability" under 35 U.S.C. 154(b)(1)(C)(iii) that the Office should enter a reduction under 37 CFR 1.702(e) of 70 days - (March 18, 2011, the date the notice of appeal was filed, to May 26, 2011, the date a notice of allowance was mailed). However, as applicants concede, the current rule does not explicitly provide a patent term adjustment in this situation. Therefore, the petition is dismissed and no change will be made to the 358 day PTA.

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, 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 § 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) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this matter should be directed to 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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GLENN PATENT GROUP
3475 EDISON WAY, SUITE L
MENLO PARK CA 94025

MAILED

JUN 28 2011

OFFICE OF PETITIONS

In re Application of :
Edwards, et al. :
Application No. 11/207,677 : DECISION ON PETITION
Filed: 18 August, 2005 :
Attorney Docket No. NOVA0026C :

This is a decision on the petition filed pursuant to 37 C.F.R. §1.78(a)(3), on 25 February, 2011, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed with the petition.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 C.F.R. §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 C.F.R. §1.78(a)(2)(ii). In addition, the petition under 37 C.F.R. §1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. §120 and 37 C.F.R. §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 C.F.R. §1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The instant application was filed on 18 August, 2005. Office records reflect that the new claim was presented in an amendment on 25 February, 2011. However, it appears that the amendment to the specification submitted contains an improper incorporation by reference as to Application No. 08/717,612—the attempt now to incorporate by reference what was not present on deposit is improper.

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).

As noted above, the petition does not comply with the requirements of the regulations at 37 C.F.R. §1.78(a)(3) as to reference. The surcharge and statement were submitted.

Thus, the petition lacks item (1), above.

Because the record does not support Petitioner's attempt to identify the priority claimed, the amendment fails to comply with the provisions of 37 C.F.R. §1.78(a)(2)(i) and is therefore unacceptable.

Accordingly, before the petition under 37 C.F.R. §1.78 can be granted, a renewed petition under 37 C.F.R. §1.78 and either an Application Data Sheet or a substitute amendment (complying with 37 C.F.R. §1.121 and 37 C.F.R. §1.76(b)(5)) correcting the priority claims made are required.

Questions concerning this matter may be directed to John Gillon at (571) 272-3214. 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 AU 3763 for further processing in due course.

Anthony Knight
Director
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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GLENN PATENT GROUP
3475 EDISON WAY, SUITE L
MENLO PARK CA 94025

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AUG 09 2011

OFFICE OF PETITIONS

In re Application of :
Edwards, et al. :
Application No. 11/207,677 : DECISION ON PETITION
Filed: 18 August, 2005 :
Attorney Docket No. NOVA0026C :

This is a decision on the petition filed pursuant to 37 C.F.R. §1.78(a)(3), on 13 July, 2011, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed with the petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 C.F.R. §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 C.F.R. §1.78(a)(2)(ii). In addition, the petition under 37 C.F.R. §1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. §120 and 37 C.F.R. §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 C.F.R. §1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The instant application was filed on 18 August, 2005. Office records reflect that the new claim was presented in an amendment on 13 July, 2011.

(It is noted that it appears Petitioner failed to submit a clean copy of the amendment and an application data sheet (ADS), and should do so without delay.)

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 C.F.R. 1.78(a)(3) should not be construed as meaning that the application is entitled to the benefit of the prior-filed application. In order for the application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §§ 120 and 37 C.F.R. 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 application(s), accompanies this decision on petition.

This application is being forwarded to the examiner of Technology Center/AU 3763 for consideration of applicant's entitlement to claim benefit of priority under 35 U.S.C. §120 to the above-noted, prior-filed applications.

Any questions concerning this decision on petition may be directed to John J. Gillon, Jr. attorney, at (571) 272-3214. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Chris Bottorff
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/207,677	08/18/2005	3763	1865	NOVA0026C	72	2

CONFIRMATION NO. 7764

22862
GLENN PATENT GROUP
3475 EDISON WAY, SUITE L
MENLO PARK, CA 94025

CORRECTED FILING RECEIPT

OC000000049174507

Date Mailed: 08/08/2011

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)

Stuart D. Edwards, Corral De Tierra, CA;
Simon W. H. Thomas, Danville, CA;

Power of Attorney:
Michael Glenn--30176
Donald Hendricks--40355
Christopher Peil--45005
Julia Thomas--52283

Domestic Priority data as claimed by applicant

This application is a CON of 09/356,110 07/16/1999 PAT 7,022,105
which is a CIP of 08/717,612 09/20/1996 PAT 6,077,257
which is a CIP of 08/677,811 07/10/1996 PAT 5,921,954
and is a CIP of 08/660,539 06/07/1996 PAT 5,743,904
and is a CIP of 08/663,004 06/07/1996 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: 09/09/2005
The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/207,677**
Projected Publication Date: Not Applicable
Non-Publication Request: No
Early Publication Request: No

** SMALL ENTITY **

Title

Treatment of tissue in sphincters, sinuses, and orifices

Preliminary Class

604

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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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

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NOV 03 2010

OFFICE OF PETITIONS

In re Application of :
Hironori Komi et al. :
Application No. 11/207,861 : DECISION ON PETITION
Filed: August 18, 2005 :
Attorney Docket No. **16869P-159000US** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 06, 2010 and supplemented on October 27, 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 05, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on January 06, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuing application under 37 CFR 1.53(b); (2) the petition fee of $1620; and (3) a proper statement of unintentional delay.

This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of continuing application No. 12/755,344.

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 April 06, 2010 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's Deposit Account No. 20-1430.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at (571) 272-2783.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/207,887	08/22/2005	Holger Reinhardt	3398-0148PUS1	1648

2292 7590 02/17/2012
BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

EXAMINER	
NELSON, KERI JESSICA	
ART UNIT	PAPER NUMBER
3772	

NOTIFICATION DATE	DELIVERY MODE
02/17/2012	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):

mailroom@bskb.com

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BIRCH, STEWART, KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

In re Patent No. 7,517,331
Issue Date: April 14, 2009
Appl No.: 11/207,887
Filed: August 22, 2005
Attorney Docket Number 3398-0148PUS1

DECISION GRANTING PETITION
37 CFR 1.324

This is a decision on the renewed petition filed February 02, 2012 to correct inventorship under 37 CFR 1.324.

The petition is **GRANTED**.

The inventorship of this application has been changed by the addition of **Rainer Scheuermann,** Raisdorf (DE).

The patented file is being forwarded to Certificate of Corrections Branch for issuance of a certificate naming only the actual inventor or inventors.

/Patricia Bianco/

Patricia Bianco
Supervisory Patent Examiner
Art Unit 3772
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
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DATE: February 9, 2012
TO: Certificates of Correction Branch
FROM: Patricia Bianco
SPE, Art Unit 3772
SUBJECT: REQUEST FOR CERTIFICATE OF CORRECTION

Please issue a Certificate of Correction in U. S. Letters Patent No. 7,517,331 as specified on the attached Certificate.

/Patricia Bianco/

Patricia Bianco
Supervisory Patent Examiner
Art Unit 3772
Technology Center 3700

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.	:	7,517,331
APPLICATION NO.	:	11/207,887
ISSUE DATE	:	April 14, 2009
INVENTOR(S)	:	Holger REINHARDT 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 TITLE PAGE:

At item (75), Inventors, change:

"**Holger Reinhardt**, Kempen (DE); **Heinrich Hess**, Kleinblittersdorf (DE); **Hans B. Bauerfeind**, Zeulenroda (DE); **Wolfgang Krause**, Hofbieber (DE)"

to

-- **Holger Reinhardt**, Kempen (DE); **Heinrich Hess**, Kleinblittersdorf (DE); **Hans B. Bauerfeind**, Zeulenroda (DE); **Wolfgang Krause**, Hofbieber (DE); **Rainer Scheuermann**, Raisdorf (DE) --.

MAILING ADDRESS OF SENDER (Please do not use customer number below):

BIRCH, STEWART, KOLASCH & BIRCH, LLP
8110 Gatehouse Road, Suite 100 East
P.O. Box 747
Falls Church, VA 22040-0747

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COMMISSIONER FOR PATENTS
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Paper No.

JUDY JARECKI-BLACK, PH.D., J.D.
3239 SATELLITE BLVD.
3RD FLOOR
DULUTH GA 30096

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OCT 01 2010

OFFICE OF PETITIONS

In re Application of :
Soll et al. : DECISION ON
Application No. 11/207,980 : PETITION
Filed: August 19, 2005 :
Attorney Docket No. MER 05-050:

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b), filed May 11, 2010.

The petition is **GRANTED**.

The above-identified application was abandoned for failure to timely file a proper reply to the final Office action mailed October 5, 2009. This Office action set a shortened statutory period for reply of three (3) months from the mail date of the action. A response, made timely by an accompanying petition and fee for extension for response within the third month, was filed. However, by Advisory Action mailed April 13, 2010, applicants were advised that the response failed to place the application in condition for allowance. No further reply received and no further extension of time obtainable, the above-identified application became abandoned effective March 6, 2010. A courtesy Notice of Abandonment was mailed on April 28, 2010.

On petition, petitioner submitted a Request for Continued Examination (RCE) and submission under §1.114 (in the form of an amendment); paid the petition fee; and made the required statement of unintentional delay.

Technology Center AU 1619 has been advised of this decision. The application is, thereby, forwarded to the examiner for consideration of the RCE and submission submitted on petition filed May 11, 2010.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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SEP 13 2010

OFFICE OF PETITIONS

UNISONE CORPORATION
510 S.CONGRESS AVENUE, SUITE 204
AUSTIN TX 78704

In re Application of
Michael T.Lucas
Application No. 11/208,004
Filed: August 22, 2005
Attorney Docket No. 26923X

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 28, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The 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/terminal disclaimer with fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the nonfinal Office action mailed July 9, 2008, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 3627 for appropriate action by the Examiner in the normal course of business on the reply received June 28, 2010.

/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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Michael T. Lucas
PO Box 3133
Rancho Santa Fe CA 92067

MAILED

AUG 09 2011

OFFICE OF PETITIONS

In re Application of :
Michael T. Lucas :
Application No. 11/208,004 : DECISION ON PETITION
Filed: August 22, 2005 :
Attorney Docket No. **26923X** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 29, 2011, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before June 30, 2011, as required by the Notice of Allowance and Fee(s) Due, mailed March 31, 2011. Accordingly, the date of abandonment of this application is July 1, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $755 and the publication fee of $300, (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at (571) 272-4584.

This application is being referred to the Office of Data Management for processing into a patent.

JoAnne Burke
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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FISH & RICHARDSON P.C.
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

MAILED
SEP 20 2011
OFFICE OF PETITIONS

In re Application of :
Schullian, et al. :
Application No. 11/208,039 : DECISION ON APPLICATION
Filed: August 19, 2005 : FOR
Atty Docket No.12587-0247001 : PATENT TERM ADJUSTMENT

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)," filed September 12, 2011. Applicants request that the initial Determination of Patent Term Adjustment under 35 U.S.C. 154(b) be corrected from one thousand, four hundred and twelve (1,412) days to one thousand, five hundred and seventy-two (1,572) days.

The application for patent term adjustment is **GRANTED.**

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, five hundred and seventy-two (1,572) days. A copy of the updated PAIR screen, showing the corrected determination, is enclosed.

On July 28, 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 1,412 days. Applicants timely filed the instant application for patent term adjustment.[1]

Applicants assert that an adjustment for Office delay of 1,572 days, rather than 1, 412 days should be entered pursuant to 37 CFR 1.702(a)(1) for the period from fourteen months after the date the application was filed until the date a First Action Interview Office Action was mailed. Specifically, applicants argue that the Pre-Interview Communication (PIC) mailed on

[1] PALM finance records indicate the issue fee has not yet been paid.

January 19, 2010, was not an Office action under 35 USC 132, and that the first Office action mailed by the USPTO was the First Action Interview Office Action mailed February 7, 2011.

Applicants' argument is persuasive. The first Office action under 35 USC 132 is the First Action Interview Office Action mailed February 7, 2011, not the PIC mailed February 24, 2010. As such, the patent term will be adjusted by 1,572 days under 37 CFR 1.702(a)(1) and 37 CFR 1.703(a)(1), with said period beginning October 20, 2006, and ending on February 7, 2011. **The period of adjustment of 1, 224 days is being removed and a period of 1, 572 days is being entered.**

It is also noted that an adjustment to the patent term of 169 days was entered under 37 CFR 1.702(a)(2). This period of 169 days completely overlaps with the period of adjustment under 37 CFR 1.702(a)(1). **The period of 169 days is being removed, accordingly.**

In view thereof, the patent term adjustment at the time of the mailing of the notice of allowance is one thousand, five hundred and seventy-two days (1,572 days of Office delay - 0 days of applicant delay).

The $200.00 fee set forth in 37 CFR 1.18(e) was received on June 11, 2009. No additional fees are required for this petition.

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) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Attorney-Advisor
Office of Petitions

Enclosure: Copy of REVISED PAIR Screen

PTA/PTE Information | Patent Term Adjustment | Patent Term Extension

Application Number*: 11208039 Search Explanation of PTA Calculation Explanation of PTE Calculation

PTA Calculations for Application: 11208039

Application Filing Date	08/19/2005	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	1412
A Delays	1412	PTO Manual Adjustment	160
B Delays	0	Applicant Delay (APPL)	0
C Delays	0	Total PTA (days)	1572

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
71	09/15/2011		P028	Adjustment of PTA Calculation by PTO	160	0	
66	07/28/2011	07/09/2011	MN/=.	Mail Notice of Allowance	19	53	
61	07/25/2011		IREV	Issue Revision Completed		0	
60	07/25/2011		DVER	Document Verification		0	
59	07/25/2011		N/=.	Notice of Allowance Data Verification Completed		0	
65	07/14/2011		OAR	Office Action Review		0	
64	07/14/2011		OAR	Office Action Review		0	
63	07/14/2011		OAR	Office Action Review		0	
62	07/14/2011		OAR	Office Action Review		0	
58	07/14/2011		EX.R	Reasons for Allowance		0	
57	07/14/2011		EX.A	Examiner's Amendment Communication		0	
56	07/14/2011		EXIN	Examiner Interview Summary Record (PTOL - 413)		0	
55	07/14/2011		CNTA	Allowability Notice		0	
54	03/21/2011		FWDX	Date Forwarded to Examiner		0	
53	03/09/2011		A...	Response after Non-Final Action		0	
52	03/09/2011		XT/G	Request for Extension of Time - Granted		0	
51	02/07/2011	08/22/2010	MFAIA	Mail First Action Interview Office Action	169	41	
50	02/05/2011		FAIA	PILOT - First Action Interview Office Action		0	
49	07/29/2010		LET.	Miscellaneous Incoming Letter		0	
48	06/29/2010		EML_NTR	Email Notification		0	
47	06/29/2010		MEXIN	Mail Examiner Interview Summary (PTOL - 413)		0	
46	06/22/2010		EXIN	Examiner Interview Summary Record (PTOL - 413)		0	
45	05/10/2010		EML_NTR	Email Notification		0	
44	05/10/2010		PA..	Change in Power of Attorney (May Include Associate POA)		0	
43	05/07/2010		C.AD	Correspondence Address Change		0	
42	04/28/2010		FWDX	Date Forwarded to Examiner		0	
41	04/22/2010		RPICO	Response to PICO-Request		0	
40	04/22/2010		XT/G	Request for Extension of Time - Granted		0	
39	02/24/2010	10/19/2006	MPICO	Mail Pre-Interview Communication	1224	0.5	
38	02/24/2010		PICO	Pre-Interview Communication		0	
31	12/14/2009		A.PE	Preliminary Amendment		0	
30	12/14/2009		RFAI	Request for first action interview		0	
28	05/01/2009		DOCK	Case Docketed to Examiner in GAU		0	
27	03/26/2009		TI1050	Transfer Inquiry to GAU		0	
26	03/15/2009		TI1050	Transfer Inquiry to GAU		0	
25	03/12/2009		TI1050	Transfer Inquiry to GAU		0	
24	12/03/2008		DOCK	Case Docketed to Examiner in GAU		0	
23	10/01/2008		TI1050	Transfer Inquiry to GAU		0	
22	09/30/2008		TI1050	Transfer Inquiry to GAU		0	
21	10/17/2007		W525	Withdraw Flagged for 5/25		0	
20	10/15/2007		F525	Flagged for 5/25		0	
19	10/16/2006		DOCK	Case Docketed to Examiner in GAU		0	
16	06/25/2006		TSSCOMP	IFW TSS Processing by Tech Center Complete		0	
15	06/25/2006		DOCK	Case Docketed to Examiner in GAU		0	
11	05/31/2006		TI1050	Transfer Inquiry to GAU		0	
32	05/08/2006		IDSC	Information Disclosure Statement considered		0	
10	05/08/2006		RCAP	Reference capture on IDS		0	
9.7	05/08/2006		M844	Information Disclosure Statement (IDS) Filed		0	
9	05/08/2006		WIDS	Information Disclosure Statement (IDS) Filed		0	
8	11/09/2005		OIPE	Application Dispatched from OIPE		0	
7	11/09/2005		COMP	Application Is Now Complete		0	
33	11/03/2005		IDSC	Information Disclosure Statement considered		0	
17	11/03/2005		RCAP	Reference capture on IDS		0	
14.7	11/03/2005		M844	Information Disclosure Statement (IDS) Filed		0	
14	11/03/2005		WIDS	Information Disclosure Statement (IDS) Filed		0	

6	11/03/2005	FLFEE	Payment of additional filing fee/Preexam	0
5	11/03/2005	OATHDECL	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic	0
4	09/07/2005	INCD	Notice Mailed--Application Incomplete--Filing Date Assigned	0
3	08/31/2005	L194	Cleared by OIPE CSR	0
12	08/30/2005	A.PE	Preliminary Amendment	0
2	08/27/2005	SCAN	IFW Scan & PACR Auto Security Review	0
34	08/19/2005	IDSC	Information Disclosure Statement considered	0
18	08/19/2005	RCAP	Reference capture on IDS	0
13.7	08/19/2005	M844	Information Disclosure Statement (IDS) Filed	0
13	08/19/2005	WIDS	Information Disclosure Statement (IDS) Filed	0
1	08/19/2005	IEXX	Initial Exam Team nn	0
0.5	08/19/2005	EFILE	Filing date	0

Export to: Excel

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OFFICE OF PETITIONS

FISH & RICHARDSON P.C.
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

In re Patent No. 8,045,962
Schullian, et al.
Issue Date: October 25, 2011
Application No. 11/208,039
Filed: August 19, 2005
Atty. Docket No**12587-0247001**

: DECISION ON REQUEST
: FOR
: RECONSIDERATION OF
: PATENT TERM ADJUSTMENT
: and
: NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on December 27, 2011, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand, eight hundred and thirty-two (1,832) 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, eight hundred and thirty-two (1,832) days is **GRANTED**.

The Office acknowledges receipt of $200.00 for the fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand, eight hundred and thirty-two (1,832) days.**

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 8,045,962 B2

DATED : Oct. 25, 2011

INVENTOR(S) : Schullian, 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 (1992) days

Delete the phrase "by 1992 days" and insert – by 1832 days--

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GrayRobinson, P. A.
401 E. LAS OLAS BLVD, SUITE 1850
FORT LAUDERDALE FL 33301

MAILED

APR 25 2011

OFFICE OF PETITIONS

In re Application of :
Victoria Paulin :
Application No. 11/208,168 : ON PETITION
Filed: August 19, 2005 :
Attorney Docket No. 013044-05669 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 22, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of December 24, 2009. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is March 25, 2010. The 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 a Request for Continued Examination (RCE) and fee of $405, and the submission required by 37 CFR 1.114; (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-2991.

This application is being referred to Technology Center AU 3637 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

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GRAYROBINSON, P. A.
401 E. LAS OLAS BLVD, SUITE 1850
FORT LAUDERDALE FL 33301

MAILED

NOV 02 2011

OFFICE OF PETITIONS

In re Application of
Victoria Paulin
Application No. 11/208,168
Filed: August 19, 2005
Attorney Docket No. 013044-05669

ON PETITION

This is a decision on the petition under 37 CFR 1.102(c)(1), filed October 11, 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 (PTO/SB/130 form) by the applicant that applicant is 65 years of age. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7751. All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

This matter is being referred to the Technology Center Art Unit 3637 for action on the merits commensurate with this decision.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DIW Apr-11

LAW OFFICES OF H. BISSELL
10616 ALMOND AVENUE
OAK VIEW CA 93022

MAILED
APR 19 2011
OFFICE OF PETITIONS

In re Patent No. 7,125,066 :
Issue Date: 10/24/2006 :
Application Number: 11/208,183 : ON PETITION
Filing Date: 08/19/2005 :
Attorney Docket Number: 2166-P :

This is a decision is in response to the petition under 37 CFR 1.378(b),[1] filed on February 22, 2011, to accept the delayed payment of the maintenance fee for the above-identified patent.

The petition is dismissed.

If reconsideration of this decision is desired, a petition for reconsideration under 37 CFR 1.378(e) must be filed within TWO (2) MONTHS from the mail date of this decision. No extension of this 2-month time limit can be granted under 37 CFR 1.136(a) or (b). Any such petition for reconsideration must be accompanied by the petition fee of $400.00 as set forth in 37 CFR 1.17(f). The petition for reconsideration should include an exhaustive attempt to provide the lacking item(s) noted below, since, after a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Director.

---

[1] A grantable petition to accept a delayed maintenance fee payment under 37 CFR 1.378(b) must be include

(1) the required maintenance fee set forth in § 1.20(e) through (g);
(2) the surcharge set forth in §1.20(I)(1); and
(3) a showing that the delay was unavoidable since reasonable care was taken to ensure that the maintenance fee would be paid timely and that the petition was filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent. The showing must enumerate the steps taken to ensure timely payment of the maintenance fee, the date and the manner in which patentee became aware of the expiration of the patent, and the steps taken to file the petition promptly.

The patent issued on October 24, 2006. The first maintenance fee could have been paid during the period from October 24, 2009, through April 26, 2010, or, with a surcharge during the period from April 27 through October 24, 2010. Accordingly, this patent expired at midnight on October 24, 2010, for failure to timely remit the maintenance fee.

A petition to accept the delayed payment of a maintenance fee under 35 U.S.C. § 41(c) and 37 CFR 1.378(b) must be accompanied by (1) an adequate, verified showing that the delay was unavoidable, since reasonable care was taken to ensure that the maintenance fee would be paid timely and that the petition was filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent, (2) payment of the appropriate maintenance fee, unless previously submitted, and (3) payment of the surcharge set forth in 37 CFR 1.20(i)(1).

Petitioner states, via his current patent attorney:

> Patentee Thomas C. McNamee retained Mr. Marvin E. Jacobs (Reg. No. 20,632) as patent counsel to ensure monitoring and timely payment of the maintenance fee. Mr. Jacobs was a sole practitioner and attorney of record in the prosecution of the application for the patent in question.
>
> Patentee did not maintain personal records of the maintenance fee payment window, and was not contacted by Mr. Jacobs regarding the necessary payment. Patentee was unaware of the payment window. Patentee took reasonable care and entrusted Mr. Jacobs to ensure monitoring of his patent and timely payment of any fees.
>
> In early January of 2010, Mr. Jacobs suffered at least one stroke. After his hospital stay, Mr. Jacobs began physical therapy with the expectation of resuming his patent practice. Unfortunately, his recovery did not progress as quickly as hoped and he apparently experienced difficulty addressing the demands of his practice.
>
> In May of 2010, Mr. Jacobs acknowledged his need for assistance with his patent practice. Later that month, he undertook efforts to locate local counsel to help him address his cases and find replacement patent counsel. He was able to make arrangements with Norman

> Dowler, LLP, a law firm in Ventura County, to work with him in addressing the backlog of matters that were accumulating during his period of disability.
>
> Mr. Jacobs progress with Norman Dowler attorneys was limited by his physical disability and soon slowed significantly as Mr. Jacobs' physical condition quickly began to decline. During this time, the files for Patentee's '066 patent were not discovered or disclosed, and the need for payment of the required maintenance fee was also not discovered or disclosed.
>
> On September 29, 2010, Mr. Jacobs passed away.
>
> Just prior to the December 2010 holidays, Norman Dowler, LLP received from Mr. Jacobs' widow a PTO notice of patent expiration for failure to pay maintenance fee. They inquired as to my availability. After a quick review of the matter, this patent attorney promptly undertook efforts to locate and contact Patentee.
>
> In the last days of December, 2010, this patent attorney contacted Patentee and explained Mr. Jacobs illness and death, the current status of his patent, and the options available to him. It was during those discussions, on or about December 30, 2010, that Patentee first learned of the expiration of his patent.
>
> Patentee wishes to revive this expired patent. In the third week of January he retained this patent attorney to file this petition.

A petition to accept the delayed maintenance fee under 35 U.S.C. § 41(c) and 37 CFR 1.378(b) must be accompanied by (1) an adequate, verified showing that the delay was unavoidable, since reasonable care was taken to ensure that the maintenance fee would be paid timely and that the petition was filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent, (2) payment of the appropriate maintenance fee, unless previously submitted, and (3) payment of the surcharge set forth in 37 CFR 1.20(i)(1). This petition lacks requirement (1).

The Director may accept late payment of the maintenance fee if the delay is shown to the satisfaction of the Director to have been "unavoidable".[2]

A late maintenance fee is considered under the same standard as that for reviving an abandoned application under 35 U.S.C. § 133 because 35 U.S.C. § 41(c)(1) uses identical language (i.e. "unavoidable delay").[3] Decisions reviving abandoned applications have adopted the reasonably prudent person standard in determining if the delay was unavoidable.[4] In this regard:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[5]

A late maintenance fee is considered under the same standard as that for reviving an abandoned application under 35 U.S.C. § 133 because 35 U.S.C. § 41(c)(1) uses the identical language, *i.e.*, "unavoidable" delay.[6] Decisions reviving abandoned applications have adopted the reasonably prudent person standard in

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[2] 35 U.S.C. § 41(c)(1).

[3] Ray v. Lehman, 55 F.3d 606, 608-09, 34 USPQ2d 1786, 1787 (Fed. Cir. 1995) (quoting In re Patent No. 4,409,763, 7 USPQ2d 1798, 1800 (Comm'r Pat. 1989)).

[4] Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887)(the term "unavoidable" "is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used by prudent and careful men in relation to their most important business").

[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).

[6] Ray v. Lehman, 55 F.3d 606, 608-09, 34 USPQ2d 1786, 1787 (Fed. Cir. 1995)(quoting In re Patent No. 4,409,763, 7 USPQ2d 1798, 1800 (Comm'r Pat. 1988)).

determining if the delay was unavoidable.[7] In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account."[8] Finally, a petition to revive an application as unavoidably abandoned cannot be granted where a petitioner has failed to meet his or her burden of establishing the cause of the unavoidable delay.[9]

As 35 USC § 41(b) requires the payment of fees at specified intervals to maintain a patent in force, rather than some response to a specific action by the Office under 35 USC § 133, a reasonably prudent person in the exercise of due care and diligence would have taken steps to ensure the timely payment of such maintenance fees.[10] That is, an adequate showing that the delay in payment of the maintenance fee at issue was "unavoidable" within the meaning of 35 U.S.C. § 41(c) and 37 CFR 1.378(b)(3) requires a showing of the steps taken by the responsible party to ensure the timely payment of the second maintenance fee for this patent.[11]

35 U.S.C. § 41(c)(1) does not require an affirmative finding that the delay was avoidable, but only an explanation as to why the petitioner has failed to carry his or her burden to establish that the delay was unavoidable.[12] 35 U.S.C. § 133 does not require the Director to affirmatively find that the delay was avoidable, but only to explain why the applicant's petition was unavailing. Petitioner is reminded that it is the patentee's burden under the statutes and regulations to make a showing to the satisfaction of the Director that the delay in payment of a maintenance fee is unavoidable.[13]

There are three periods to be considered during the evaluation of a petition under 37 CFR 1.378(b):

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[7] Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887) (the term "unavoidable" "is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful man in relation to their most important business"); In re Mattullath, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r Pat. 1913).

[8] Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982).

[9] Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (N.D. Ind. 1987).

[10] Ray, 55 F.3d at 609, 34 USPQ2d at 1788.

[11] Id.

[12] See Commissariat A. L'Energie Atomique v. Watson, 274 F.2d 594, 597, 124 USPQ 126, 128 (D.C. Cir. 1960).

[13] See Rydeen v. Quigg, 748 F. Supp. 900, 16 USPQ2d 1876 (D.D.C. 1990), aff'd 937 F.2d 623 (Fed. Cir. 1991)(table), *cert. denied*, 502 U.S. 1075 (1992); Ray v. Lehman, supra.

(1) The delay in reply that originally resulted in expiration;

(2) The delay in filing an initial petition pursuant to § 1.378(b) to revive the application; and

(3) The delay in filing a *grantable* petition pursuant to § 1.378(b) to revive the application.[6]

With regard to period (1), at the date the maintenance fee was due, October 24, 2010, the showing of record is that attorney Jacobs had already passed away. As such, the showing of record suggests that Norman Dowler, LLP (hereinafter "Dowler) had assumed responsibility for payment of the maintenance fees, as Jacobs died on September 29, 2010. However, petitioners have not explained why Dowler did not discover that the patent had expired prior to receiving the Notice of Expiration from the Office.

Furthermore, while petitioner allegedly chose to rely upon counsel, such reliance *per se* does not provide petitioner with a showing of unavoidable delay within the meaning of 35 U.S.C. § 41(c) and 37 CFR 1.378(b).[14] Rather, reliance merely shifts the focus of the inquiry from petitioner to whether the practitioner acted reasonably and prudently.[15] Nevertheless, petitioner is bound by any errors that may have been committed by counsel.[16] Petitioner should also note that the U.S. Patent and Trademark Office is not the proper forum for resolving disputes between patentees and their representatives.

Petitioner and his current counsel may should consider researching Jacob's and/or Dowler's docketing systems. An explanation of the docketing system and statements from anyone who was employed by Jacobs and/or Dowler in docketing patents for payment of the maintenance fee, explaining the steps in place for docketing and paying the maintenance fee(s), should be provided with any renewed petition in the form of an affidavit or declaration of fact by any person with firsthand knowledge of the circumstances, setting forth the facts as they know them.

The U.S. Patent and Trademark Office must rely on the actions or inactions of duly authorized and voluntarily chosen

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[6] See Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131 at 53158 (October 10, 1997).

[14] See California Medical Products v. Technol Med. Prod., 921 F. Supp. 1219, 1259. (D. Del. 1995).

[15] Id.

[16] California, supra.

representatives of the applicant, and applicant is bound by the consequences of those actions or inactions.[17] Specifically petitioners' delay caused by the mistakes or negligence of their voluntarily chosen representative does not constitute unavoidable delay within the meaning of 35 U.S.C. § 41(c)(1) or 37 CFR 1.378(b).[18] Petitioners were not forced, but rather made a conscious decision to obtain the services of the chosen representative in payment of the maintenance fees for this patent, and therefore must be held accountable for his actions, or lack thereof, before the Office.

Further, as petitioner states that his attorney, Jacobs, who sought the assistance of Dowler, was responsible for payment of maintenance fees, assuming that Jacobs (and/or Dowler), as petitioners' registered patent attorney had been so engaged, then it is incumbent upon petitioners to demonstrate, via a documented showing, that Jacobs and/or Dowler had docketed this patent for the first maintenance fee payment in a reliable tracking system.[19] If petitioner cannot establish that Jacobs and/or Dowler had been so engaged, then petitioner will have to demonstrate what steps were established by petitioner to monitor and pay the maintenance fee.[20]

Petitioner is reminded that any errors or omissions of Jacobs and/or Dowler did not relieve petitioner from his obligation to exercise diligence with respect to this patent.[21] In the absence of an adequate showing of petitioners' diligence in this matter throughout the period in question, the actions or inactions of the registered practitioners will remain imputed to petitioner.[22]

Therefore, any showing of unavoidable delay must include a statement from petitioner's patent attorney, as well as any other attorney(s) of record during the period that payment of the maintenance fee was delayed, as to why action was not taken to timely submit the required maintenance fee while the patent was under that agent's control. Petitioner should send a letter

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[17] Link v. Wabash, 370 U.S. 626, 633-34 (1962).

[18] Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (D. Ind. 1987); Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (Comm'r Pat. 1891).

[19] Id.

[20] Id.

[21] Douglas v. Manbeck, 1991 U.S. Dist. LEXIS 16404, 21 USPQ2d 1697, 1700 (E.D. Pa. 1991), *aff'd*, 975 F.2d 869, 24 USPQ2d 1318 (Fed. Cir. 1992) (applicant's failure over two and one half year period, to exercise any diligence in prosecuting his application overcame and superseded any omissions on the part of his representative).

[22] See In re Lonardo, 17 USPQ2d 1455 (Comm'r Pat. 1990).

(accompanied by a copy of this decision) to Dowler by registered or certified mail, return receipt requested, indicating to the agent that the USPTO is requesting his assistance in determining the circumstances surrounding the expiration of this patent, and is specifically requesting Dowler to provide a statement as to: (1) whether, and when, he first became aware that the first maintenance fee for this patent was due, and (2) why the maintenance fee was not timely submitted. Such statements should be accompanied by copies of any documents relevant to payment of the maintenance fee. In the event that Dowler fails to provide a statement within a person (e.g. within one (1) month) specified in such letter, petitioner should submit a copy of such letter and the return receipt indicating its delivery to the patent attorney or agent with any petition for reconsideration under 37 CFR 1.378(e).

Further, with regard to item (2), petitioners state that Dowler learned that the patent had expired in December, 2010. The subject petition, however, was not filed until February 15, 2011. Petitioner, however, must provide a detailed explanation as to why the entire delay payment of the maintenance fee, from the date the maintenance fee was due until the date the initial petition was filed, was unavoidable.

Petitioner should note that if this petition is not renewed, or if renewed and not granted, then the maintenance fee and post-expiration surcharge are refundable. The $400.00 petition fee for seeking reconsideration is not refundable. Any request for refund should be in writing to the address noted below.

ALTERNATIVE VENUE

Petitioner may wish, in the alternative, to request reconsideration in the form of a petition under 37 CFR 1.378(c), requesting that the unintentionally delayed payment of a maintenance fee be accepted. A petition to accept the delayed payment of a maintenance fee under 35 U.S.C. 41(c) and 37 CFR 1.378(c) must be filed within twenty four months from the end of the six month grace period (e.g., the expiration date of the patent and be accompanied by (1) a verified statement that the delay was unintentional, (2) payment of the appropriate maintenance fee, unless previously submitted, (3) payment of the $1,640.00 surcharge (the $700.00 surcharge already paid may be credited thereto leaving a balance due of $940.00) set forth in 37 CFR 1.20(i)(2). The statement can be verified by using the attached petition form which includes a declaration according to 37 CFR 1.68.

The filing of a petition under the unintentional standard cannot be intentionally delayed and therefore should be filed promptly. A person seeking revival due to unintentional delay can not make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the patent was expired until the filing of the petition to reinstate under 37 CFR 1.378(c), 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 1.378(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 FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

A reply may also be filed via EFS-Web.

Telephone inquiries should be directed to the undersigned at 571-272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: PTO/SB/66

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AlbertDhand LLP
11622 El Camino Real
Suite 100
San Diego CA 92130

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OFFICE OF PETITIONS

In re Application of :
Kneckt :
Application No. 11/208,199 : DECISION ON PETITION
Filed: August 19, 2005 :
Attorney Docket No. **00002-1080** :

This is a decision on the petition under 37 CFR 1.137(b), filed July 25, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to file a proper reply to the final Office action mailed December 22, 2010, which set a three (3) month shortened statutory period for reply. The application became abandoned on March 23, 2011. A Notice of Abandonment was mailed June 29, 2011.

The Notice of Appeal, filed July 25, 2011, is noted.

The Pre-Appeal Brief Request for Review, filed July 25, 2011, is also noted.

The application file is being forwarded to Technology Center 2600, GAU 2617 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60610

MAILED

OCT 12 2010

OFFICE OF PETITIONS

In re Patent of Kim et al.	:	DECISION ON REQUEST
Patent No. 7,580,016	:	FOR RECONSIDERATION OF
Issue Date: August 25, 2009	:	PATENT TERM ADJUSTMENT
Application No. 11/208,238	:	AND NOTICE OF INTENT TO
Filing Date: August 17, 2005	:	ISSUE CERTIFICATE OF
Attorney Docket No. 10125-5192	:	CORRECTION

This decision is in response to the "Second Request for Reconsideration of Patent Term Adjustment" filed May 21, 2010, stating the correct patent term adjustment is one thousand nineteen (1019) days.

The request for reconsideration of the patent term adjustment is **GRANTED**.

The patent issued August 25, 2009. The patent term adjustment indicated in the patent was 646 days.

A request for reconsideration of the patent term adjustment under 37 C.F.R. § 1.705(d) was filed September 29, 2009.

A "Request for Recalculation of Patent Term Adjustment in View of *Wyeth*" was filed February 4, 2010.

On April 9, 2010, the Office issued a decision in response to the September 29, 2009 request. The decision stated a certificate of correction would be issued indicating the term of the patent is extended or adjusted by 1019 days.

On April 21, 2010, the Office issued a decision in response to the February 1, 2010 request. The decision indicated the Office would be issuing a certificate of correction indicating the term of the patent is extended or adjusted by 1392 days.

The instant request was filed May 21, 2010, and asserts the correct number of days of patent term adjustment is 1019 days.

The Office agrees the proper patent term adjustment is 1019 days.

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 nineteen (1019)** days.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,580,016 B2

ISSUE DATE : August 25, 2009 **DRAFT**

INVENTOR(S) : Kim 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 646 days.

Delete the phrase "by 646 days" and insert --by 1,019 days--