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JOSEPH C. ZUCCHERO
SUITE 1200
500 WEST CUMMINGS PARK
WOBURN MA 01801

MAILED

OCT 08 2010

OFFICE OF PETITIONS

In re Application of	:	
Kandimalla et al.	:	ON REQUEST FOR
Application No. 11/270805	:	RECONSIDERATION OF
Filing or 371(c) Date: 11/09/2005	:	PATENT TERM ADJUSTMENT
Atty Docket No.:	:	
HYB-005US8	:	

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 35 U.S.C. § 154(b)(3)(b)(II), filed June 14, 2010. Applicant submits that the proper patent term adjustment to be indicated on the patent is 521 days, not 18 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).

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.

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

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

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

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

/DLW/

Derek L. Woods
Attorney
Office of Petitions

Cc: WAYNE A. KEOWN
ONE CITY CENTER
PORTLAND, ME 04112

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CHARLES G. CALL
361 WILD COFFEE LN
MARCO ISLAND FL 34145-1849

MAILED

JAN 12 2011

OFFICE OF PETITIONS

In re Application of	:	
Bettin et al.	:	
Application No. 11/270,971	:	DECISION ON PETITION
Filed: November 12, 2005	:	
Attorney Docket No. F-14	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 9, 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 12, 2010, as required by the Notice of Allowance and Fee(s) Due mailed July 9, 2010. Accordingly, the date of abandonment of this application is October 13, 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

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.
11/271,063	11/10/2005	Joachim Baumgarten	3506	1025

7590 02/15/2011

STRIKER, STRIKER & STENBY
103 EAST NECK ROAD
HUNTINGTON, NY 11743

EXAMINER	
FABIAN-KOVACS, ARPAD	
ART UNIT	PAPER NUMBER
3671	

MAIL DATE	DELIVERY MODE
02/15/2011	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE
BOARD OF PATENT APPEALS AND INTERFERENCES

Ex parte JOACHIM BAUMGARTEN et al.

Application 11/271,063
Technology Center 3600

DECISION ON PETITION

This is a decision on the "Renewed Petition Pursuant 37 CFR § 1.137(b)," filed March 1, 2010 ("Renewed Petition"). The Renewed Petition seeks reconsideration of Appellants' earlier petition, the "Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b)," filed on November 4, 2009 ("Prior Petition"), which requested revival of the application.

FINDINGS

1. Appellants filed an Appeal Brief on November 5, 2008 ("Original Appeal Brief"), which lacked a statement identifying the appealed claims. (*See* Notification of Non-Compliant Appeal Brief, entered November 21, 2008)

2. Appellants filed a second Appeal Brief on November 26, 2008 ("Second Appeal Brief"), including a statement identifying the claims being appealed. (Second Appeal Brief, p. 4.)

3. The Second Appeal Brief included a Summary of Claimed Subject Matter, as did the Original Appeal Brief, providing page and line number references to the entire claim instead of individual claim elements. (*See* Original Appeal Brief, pp. 6-7, and Second Appeal Brief, pp. 6-7.)

4. The Primary Examiner entered a Notice of Non-Complaint Appeal Brief on December 30, 2008 ("Second Notice"), indicating that the Second Appeal Brief lacked a proper Summary of Claimed Subject Matter section because Appellants did not identify pages, line numbers, and drawing references to explain specific claim elements and because they did not identify specific structures representing functional claim language. The Primary Examiner also indicated that the Second Appeal Brief did not include proper headings for each independent claim argued.

5. Appellants filed a third Appeal Brief on January 28, 2009 ("Third Appeal Brief"), which added page, line number, and drawing references following the terms of the claims. (Third Appeal Brief, pp. 6-7).

6. The Primary Examiner entered a third Notice of Non-Compliant Appeal Brief on March 5, 2009 ("Third Notice"), indicating the Third Appeal Brief did not overcome the prior reasons for non-compliance.

7. Appellants and the Primary Examiner held an interview on March 10, 2009, to discuss the issues of non-compliance.

8. Appellants filed a fourth Appeal Brief on April 3, 2009 ("Fourth Appeal Brief"), which included a Summary of Claimed Subject Matter section identifying some alternative and additional pages, line numbers, and drawing references to explain the claim terms. (Fourth Appeal Brief, pp. 6-7.)

9. The Primary Examiner entered a Communication on June 19, 2009 ("Communication"), indicating the Fourth Appeal Brief did not overcome the prior reasons for non-compliance.

10. The Primary Examiner gave no additional time to respond to the Communication beyond the one month provided to respond to the Third Notice.

11. The Primary Examiner entered a Notice of Abandonment on September 19, 2009, in response to Appellants' failure to respond sufficiently and timely to the Third Notice.

12. Appellants filed a Petition for Revival of an Application Abandoned Unintentionally under 37 CFR 1.137(b) ("Prior Petition"), along with the required petition fee, a proper statement of unintentional delay, and a fifth Appeal Brief ("Fifth Appeal Brief"), on November 4, 2009.

13. The Fifth Appeal Brief, again, slightly modified the Summary of Claimed Subject Matter section.

14. A Senior Attorney in the Office of Petitions entered a Decision on Petition Pursuant to 37 C.F.R. § 1.137(B) on January 25, 2010 ("Prior Decision"), dismissing Appellants' Prior Petition because Appellants' Fifth Appeal Brief was considered to be non-compliant.

15. Appellants timely filed a Renewed Petition Pursuant to 37 C.F.R. § 1.137(b) within two months of the date the Prior Decision was entered, along with a Response to Notification of Non-Compliant Appeal Brief, and a sixth Appeal Brief ("Sixth Appeal Brief") on March 1, 2010.

RELEVANT AUTHORITY

Appellants are required to provide a summary of the claimed subject matter in an Appeal Brief. *See* 37 C.F.R. § 41.37(c)(1)(v). Specifically, the Appeal Brief must include:

> A concise explanation of the subject matter defined in each of the independent claims involved in the appeal, which shall refer to the specification by page and line number, and to the drawing, if any, by reference characters. For each independent claim involved in the appeal and for each dependent claim argued separately under the provisions of paragraph (c)(1)(vii) of this section, every means plus function and step plus function as permitted by 35 U.S.C. 112, sixth paragraph, must be identified and the structure, material, or acts described in the specification as corresponding to each claimed function must be set forth with reference to the specification by page and line number, and to the drawing, if any, by reference characters.

(*Id.*)

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.

DISCUSSION

Appellants have submitted six different Appeal Briefs, presenting five different Summary of the Claimed Subject Matter sections. Though the pages, line numbers, and drawing references recited varied somewhat in each of these sections, they have never been found to be irrelevant or to describe elements unrelated to the subject matter of the claims. The Appeal Brief Appellants now submit with the Renewed Petition satisfies the requirements of 37 C.F.R. § 41.37(c)(1)(v). This decision does not address the merits of the rejections of or the patentability of Appellants' claims.

In addition to a proper brief, in the Renewed Petition, Appellants have complied with the other requirements of 37 C.F.R. § 1.137(b).

DECISION

In view of the foregoing, the Renewed Petition is GRANTED and the application is hereby revived.

James T. Moore
Acting Chief Administrative Patent Judge

Striker, Striker & Stenby
103 East Neck Road
Huntington, NY 11743

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Hovey Williams LLP
10801 Mastin Blvd., Suite 1000
Overland Park, KS 66210

MAILED

OCT 25 2010

OFFICE OF PETITIONS

In re Application of :
Sharon E. BENNETT, et *al.* :
Application No. 11/271,085 : DECISION GRANTING PETITION
Filed: November 12, 2005 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **38673** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 22, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on September 15, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 3643 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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

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

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1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, UT 84111

MAILED
APR 28 2011
OFFICE OF PETITIONS

In re Application of :
D. Keith Roper :
Application No. 11/271,141 : ON PETITION
Filed: November 9, 2005 :
Attorney Docket No. 6300.138.1 :

This is a decision on the petition under 37 CFR 1.137(b), filed March 24, 2011, to revive the above-identified application.

The application became abandoned for failure to file a reply to the non-final Office action mailed September 15, 2009. A Notice of Abandonment was mailed on April 26, 2010.

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

This application file is being referred to Technology Center Art Unit 1641 for review of the amendment submitted with the present petition.

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

Andrea Smith
Petitions Examiner
Office of Petitions

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POLSTER LIEDER WOODRUFF & LUCCHESI, L.C.
12412 POWERSCOURT DR., SUITE 200
ST. LOUIS, MO 63131-3615

MAILED

DEC 06 2010

OFFICE OF PETITIONS

In re Application of :
George Dube :
Application No. 11/271,224 : ON PETITION
Filed: November 12, 2005 :
Attorney Docket No. META 9471US :

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

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Office action mailed December 9, 2009, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). Accordingly, the above-identified application became abandoned on January 10, 2010.

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

This matter is being referred to Technology Center AU 2872 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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Paper No.

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

MAILED

AUG 26 2010

OFFICE OF PETITIONS

In re Patent No. 7600474	: DECISION ON REQUEST
Tae Young Oh	: FOR
Issue Date: 10/13/2009	: RECONSIDERATION OF
Application Number: 11/271259	: PATENT TERM ADJUSTMENT
Filing or 371(c) Date: 11/08/2005	: and
Atty Docket No.	: NOTICE OF INTENT TO ISSUE
10125-4209	: CERTIFICATE OF CORRECTION

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 six hundred forty-two (642) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by six hundred forty-two (642) days is **GRANTED**.

No fee is due with the subject request for reconsideration.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **six hundred forty-two (642)** 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 : 7,600,474 B2

DATED : **Oct. 13, 2009** **DRAFT**

INVENTOR(S) : Oh

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 472 days.

Delete the phrase "by 472 days" and insert – by 642 days--

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Paper No.

Weaver Austin Villeneuve & Sampson LLP
P.O. BOX 70250
OAKLAND CA 94612-0250

MAILED

AUG 3 1 2010

OFFICE OF PETITIONS

In re Patent No. 7,584,449	:	DECISION ON REQUEST
Beerel et al.	:	FOR
Issue Date: September 1, 2009	:	RECONSIDERATION OF
Application No. 11/271,323	:	PATENT TERM ADJUSTMENT
Filed: November 10, 2005	:	and
Atty Docket No. FULCP012	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on November 2, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted for 272 additional days minus days consumed by the request for continued examination (RCE).

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein.** The patent term adjustment is corrected to indicate that the term of the above-identified patent is extended or adjusted by **two hundred forty-four (244)** days.

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period begins on November 11, 2008 and ends on December 2, 2008, the day *before* the RCE was filed. See 35 U.S.C. 154(b)(1)(B)(i). Thus, the over 3 year period is 22 days. The patent term adjustment is now increased by 22 days to 244 days.

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

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

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

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

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **two hundred forty-four (244)** 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 : 7,584,449 B2

DATED : **September 1, 2009** **DRAFT**

INVENTOR(S) : Beerel 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 222 days

Delete the phrase "by 222 days" and insert – by 244 days--

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HOWARD N. SOMMERS
22613 JAMESON DRIVE
CALABASAS CA 91302

MAILED

SEP 13 2010

OFFICE OF PETITIONS

In re Application of	:	
Renau, Karol	:	
Application No. 11/271,481	:	ON PETITION
Filed: November 9, 2005	:	
Attorney Docket No. RENAU-70778	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed August 25, 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 the Issue Fee Transmittal with payment of the issue fee, (2) the petition fee of $810.00, and (3) a proper statement of unintentional delay.

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

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

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

Liana Walsh
Petitions Examiner
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/271,626	11/10/2005	Jagabandhu Das	QA204 CNT4	2679

23914 7590 07/08/2011

HENRY HADAD
BRISTOL-MYERS SQUIBB COMPANY
PATENT DEPARTMENT
P O BOX 4000
PRINCETON, NJ 08543-4000

EXAMINER	
LOEWE, SUN JAE Y	
ART UNIT	**PAPER NUMBER**
1622	

NOTIFICATION DATE	DELIVERY MODE
07/08/2011	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):

uspatents@BMS.COM
patents@bms.com
loretta.postell@bms.com

UNITED STATES PATENT AND TRADEMARK OFFICE

JUL - 8 2011

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HENRY HADAD
BRISTOL-MYERS SQUIBB COMPANY
PATENT DEPARTMENT
P O BOX 4000
PRINCETON NJ 08543-4000

In re Application of: :
Das et al. :
Serial No.: 11/271,626 : PETITION DECISION
Filed: November 10, 2005 :
Attorney Docket No.: **QA204 CNT4**

This is in response to the petition under 37 CFR § 1.59(b), filed June 20, 2011, to expunge information from the above identified application. This application has not been allowed.

Petitioner requests that the information submitted to the Patent Office on June 20, 2011, be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

This is an examined application which is currently under non-final rejection. As such the information provided has been reviewed, in part, but proceedings in the application have not been terminated. As stated in M.P.E.P. 724, upon allowance or other action closing prosecution in an application, petition may be made for return of Proprietary information. The information cannot be expunged at this time.

The petition is **DISMISSED**. Petitioner may resubmit the petition subsequent to a Notice of Allowability or *ex parte Quayle* action being mailed in the application. No additional petition fee will be required at that time.

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

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

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PATENT AND TRADEMARK DEPARTMENT
451 FLORIDA STREET
BATON ROUGE, LA 70801

MAILED

NOV 05 2010

OFFICE OF PETITIONS

In re Application of	:	
Sonja Eijsbouts	:	
Application No. 11/271,679	:	DECISION ON PETITION
Filed: November 10, 2005	:	
Attorney Docket No. ACH 2807-A	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 15, 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 February 5, 2010, no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned by operation of law on April 6, 2010. *See* MPEP 1215.04. A Notice of Abandonment was mailed October 7, 2010.

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

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

This application is being referred to Technology Center AU 1793 for appropriate action by the Examiner in the normal course of business on the reply received October 15, 2010.

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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APR 25 2011

OFFICE OF PETITIONS

Albemarle Netherlands B.V.
Patent and Trademark Department
451 Florida Street
Baton Rouge LA 70801

In re Application of :
Eijsbouts :
Application No. 11/271,679 : ON APPLICATION FOR
Filed: November 10, 2005 : PATENT TERM ADJUSTMENT
Attorney Docket No. ACH 2807-A :

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT" filed March 23, 2011, which properly treated under 37 CFR 1.704(b). Applicant submits that the correct patent term adjustment to be indicated on the patent is one thousand, twenty-nine (1,029) days, not five hundred and forty-five (545) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction, in part, on the basis that the Office will take in excess of three years to issue this patent.

Relative to the any assertion that the Office will take in excess of 3 years of the filing date to issue this patent, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

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

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the

initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

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

To the extent that applicants otherwise requests reconsideration of the patent term adjustment at the time of the mailing of the notice of allowance, the application for patent term adjustment is **GRANTED to the extent indicated herein**.

The Office has updated the PALM and PAIR screens to reflect that the Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is three hundred and sixty (360) days. A copy of the updated PALM screen, showing the corrected determination, is enclosed.

Applicant states:

---

[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.

> [a]lso the present application became abandoned during the appeal period. However, these days have been deducted under § 1.703(b)(4) above, and applicants believe that no further reductions for these days are required.

Excerpt taken from "APPLICATION FOR PATENT TERM ADJUSTMENT" filed March 23, 2011, pg. 2.

Applicant's argument has been considered, but is not well taken[2]. Further, it appears that the Office erred in its calculation of the reduction to the patent term adjustment relating to the period of abandonment. A review of the record reveals that the application became abandoned on April 6, 2010, for failure to file an appeal brief within two months of the filing of a Notice of Appeal on February 5, 2010. A Notice of Abandonment was mailed October 7, 2010. A petition under 37 CFR 1.137(b) was filed October 15, 2010. There does not appear to be a reduction to the patent term adjustment that would be appropriately entered under 37 CFR 1.704(c)(4) as the petition under 37 CFR 1.137(b) was filed within two months of the mailing date of the Notice of Abandonment. The appropriate reduction to the patent term adjustment is made pursuant to 37 CFR 1.703(c)(3), which states 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 extent that the period s are not overlapping:
>
> (3) Abandonment of the application or late payment of the issue fee, in which case the period of adjustment set

---

[2] Applicant's argument is somewhat confusing because 37 CFR 1.704(b)(4) concerns a period that is excluded from the over three year pendency adjustment to the patent term. The period of abandonment would subject the application to a reduction to the patent term adjustment. The two periods are exclusive of each other. The patent term adjustment would be subject to reduction for the abandonment of the application, notwithstanding whether the abandonment occurred during an appeal period. Were the appeal to be successful, the patent term would be adjusted by the relevant period. See 37 CFR 1.702(e). The period of reduction to the patent term adjustment, i.e. applicant delay, would still include the period of abandonment under 37 CFR 1.704(c)(3).

forth in 1.703 shall be reduced by the number of days, if any, beginning on the date of abandonment or the date after the date the issue fee was due and ending on the earlier of:

(i) The date of mailing of the decision reviving the application or accepting late payment of the issue fee; or

(ii) The date that is four months after the date the grantable petition to revive the application or accept late payment of the issue fee was filed;

Accordingly, a reduction to the patent term adjustment under 37 CFR 1.704(c)(3) of 214 days is warranted, with said period beginning on the date of abandonment of the application, April 6, 2010, and ending on the date of mailing of the decision reviving the application, November 5, 2010. The period of reduction to the patent term adjustment of 29 days is being removed and a period of 214 days is being entered.

In view thereof, the determination of the patent term adjustment at the time of the mailing of the notice of allowance is three hundred and sixty (360) days (574 days of Office delay - 214 days of applicant delay).

Deposit account 01-0659 will be charged $200.00 for the 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).

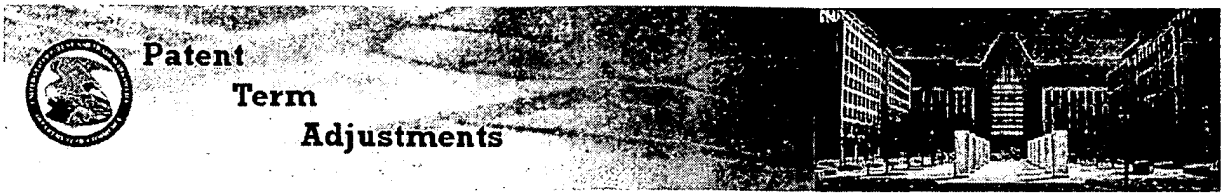
The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

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*: 11271679 Search | Explanation of PTA Calculation | Explanation of PTE Calculation

PTA Calculations for Application: 11271679

Application Filing Date	11/10/2005	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	574
A Delays	574	PTO Manual Adjustment	-185
B Delays	0	Applicant Delay (APPL)	29
C Delays	0	Total PTA (days)	360

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
57	04/19/2011		P028	Adjustment of PTA Calculation by PTO		185	0
50	12/23/2010	02/05/2010	MN/=.	Mail Notice of Allowance			32
49	12/20/2010		IREV	Issue Revision Completed			0
48	12/20/2010		DVER	Document Verification			0
47	12/20/2010		N/=.	Notice of Allowance Data Verification Completed			0
46	12/20/2010		DOCK	Case Docketed to Examiner in GAU			0
45	12/20/2010		CNTA	Allowability Notice			0
42	11/16/2010		FWDX	Date Forwarded to Examiner			0
40	11/15/2010		MNRAB	Mail Notice of Rescinded Abandonment			0
39	11/15/2010		NRAB	Notice of Rescinded Abandonment in TCs			0
38	11/15/2010		DOCK	Case Docketed to Examiner in GAU			0
37	11/05/2010		MPREV	Mail-Petition to Revive Application - Granted			0
36	11/05/2010	10/07/2010	PREV	Petition to Revive Application - Granted		29	34
41	10/15/2010		AP.B	Appeal Brief Filed			0
35	10/15/2010		PET.	Petition Entered			0
34	10/07/2010		MABN2	Mail Abandonment for Failure to Respond to Office Action			0
33	10/01/2010		ABN2	Aband. for Failure to Respond to O. A.			0
32	02/05/2010		N/AP	Notice of Appeal Filed			0
31	12/08/2009		MCTFR	Mail Final Rejection (PTOL - 326)			0
30	12/07/2009		CTFR	Final Rejection			0
29	09/27/2009		FWDX	Date Forwarded to Examiner			0
28	08/21/2009		A...	Response after Non-Final Action			0
27	05/28/2009		MCTNF	Mail Non-Final Rejection			0
26	05/26/2009		CTNF	Non-Final Rejection			0
25	04/07/2009		FWDX	Date Forwarded to Examiner			0
24	04/01/2009		ELC.	Response to Election / Restriction Filed			0
23	04/01/2009		XT/G	Request for Extension of Time - Granted			0
22	01/30/2009		MNRES	Mail Notice of Restarted Response Period			0
21	01/29/2009		NRES	Letter Restarting Period for Response (i.e. Letter re: References)			0
20	10/29/2008		C.AD	Correspondence Address Change			0
19	09/05/2008		MNRES	Mail Notice of Restarted Response Period			0
18	09/03/2008		NRES	Letter Restarting Period for Response (i.e. Letter re: References)			0
17	08/06/2008	01/10/2007	MCTRS	Mail Restriction Requirement	574		0.5
16	08/04/2008		CTRS	Restriction/Election Requirement			0
15	08/04/2008		DOCK	Case Docketed to Examiner in GAU			0
14	02/14/2006		TSSCOMP	IFW TSS Processing by Tech Center Complete			0
13	02/14/2006		DOCK	Case Docketed to Examiner in GAU			0
11	12/14/2005		COMP	Application Is Now Complete			0
12	12/13/2005		WROIPE	Application Return from OIPE			0
10	12/13/2005		ROIPE	Application Return TO OIPE			0
8	12/13/2005		COMP	Application Is Now Complete			0
9	12/12/2005		WROIPE	Application Return from OIPE			0
7	12/12/2005		ROIPE	Application Return TO OIPE			0
6	12/12/2005		OIPE	Application Dispatched from OIPE			0
5	12/12/2005		COMP	Application Is Now Complete			0
4	11/29/2005		L194	Cleared by OIPE CSR			0
3	11/29/2005		CLSS	CASE CLASSIFIED BY OIPE			0
2	11/23/2005		SCAN	IFW Scan & PACR Auto Security Review			0
1	11/10/2005		IEXX	Initial Exam Team nn			0
0.5	11/10/2005		EFILE	Filing date			0

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SEP 13 2010

OFFICE OF PETITIONS

Dechert LLP
PO Box 390460
Mountain View CA 94039-0460

In re Patent No. 7,589,190	:
Westergaard et al.	: DECISION UPON REMAND AND
Issue Date: September 15, 2009	: RECONSIDERATION OF
Application No. 11/271,686	: PATENT TERM ADJUSTMENT
Filed: November 9, 2005	: AND NOTICE OF INTENT
Attorney Docket No. 366929-025US	: TO ISSUE CERTIFICATE OF CORRECTION
Title: Potent LNA Oligonucleotides for the Inhibition of HIF-1A Expression	:

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 Office notes that the decision mailed 5-27-2010 was in response to a form to the Office according to the interim Wyeth procedures. Since a civil action was commenced, the decision should have been addressed through the remand process rather than the interim procedure. This decision confirms the PTA determination of 411 days.

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 four hundred and eleven (411) 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 four hundred and eleven (411) 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 : 7,589,190

DATED : **September 15, 2009** **DRAFT**

INVENTOR(S) : Westergaard 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 101 days

Delete the phrase "by 101 " and insert – by 411 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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F. CHAU & ASSOCIATES, LLC
130 WOODBURY ROAD
WOODBURY NY 11797

MAILED
SEP 21 2010
OFFICE OF PETITIONS

In re Application of :
Christopher J. Vitito :
Application No. 11/272,002 : DECISION ON PETITION
Filed: November 14, 2005 :
Attorney Docket No. **8002A-243T (VIT) CON** :

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

The petition is **GRANTED**.

There is no indication that the person signing the petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature of Eric J. Strianese appearing on the petition shall constitute a representation to the United States Patent and trademark Office that petitioner is authorized to represent the particular party on whose behalf he acts. If, Mr. Strianese desires to be acknowledged as the attorney of record in this file, the appropriate power of attorney documents must be submitted.

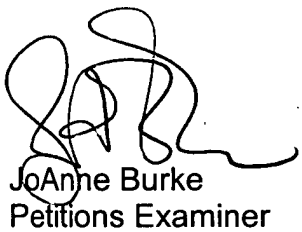
The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, December 24, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on March 25, 2009.

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

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 JoAnne Burke at (571) 272-4584.

This application is being referred to Technology Center AU 3636 for appropriate action by the Examiner in the normal course of business on the reply received.



JoAnne Burke
Petitions Examiner
Office of Petitions

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MORRISON & FOERSTER, LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN, VA 22102

MAILED

MAR 28 2011

OFFICE OF PETITIONS

In re Application of :
Glenn A. Reitmeier, et. al. :
Application No. 11/272,043 : DECISION ON PETITION
Filed: November 14, 2005 : TO WITHDRAW FROM
Attorney Docket No. AVA10-56 : 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 1, 2011.

The request is **MOOT**.

A review of the file record indicates that any previous power of attorney was revoked by the assignee of the above application on March 12, 2011. Accordingly, the request to withdraw under 37 CFR §§ 1.36(b) or 10.40 is unnecessary.

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

There is an outstanding Office action mailed on January 31, 2011, that requires a reply from applicant.

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

Andrea Smith
Petitions Examiner
Office of Petitions

cc: NBC Universal, Inc
C/O Fletcher Yoder, P.C.
PO Box 692289
Houston, TX 77269-2289

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March 31, 2011

A. David Joran
Patent Law Department
Five Giralda Farms
Madison, NJ 07940

Patent No.	: 7,897,733 B2
Ser. No.	: 11/272,070
Inventor(s)	: Katherine L. Molnar-Kimber, et al.
Issued	: March 1, 2011
Docket No.	: PC69507
Title	: **RAPAMYCIN CONJUGATES AND ANTIBODIES**

Re: Request for Certificate of Correction

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

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

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

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

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

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

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

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-0025 ATTN: Office of Petitions

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

/Virginia Tolbert/
Virginia Tolbert
For Mary Diggs
Decisions & Certificates
of Correction Branch
(571) 272-0460 or (703) 756-1814

vt

UNITED STATES PATENT AND TRADEMARK OFFICE

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WYETH LLC
PATENT LAW GROUP
5 GIRALDA FARMS
MADISON NJ 07940

MAILED

JUN 14 2011

OFFICE OF PETITIONS

In re Patent No. 7,897,733
Application No. 11/272,070
Filed: November 14, 2005
Issued: March 1, 2011
Attorney Docket No. PC 69507

ON PETITION

This is a decision on the request under 37 CFR 3.81(b)[1], filed April 18, 2011, to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

This matter is being referred to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3206. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

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

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OFFICE OF PETITIONS

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

In re Patent No. 7,750,974	:	DECISION ON REQUEST
MacInnis et al.	:	FOR
Issue Date: July 6, 2010	:	RECONSIDERATION OF
Application No. 11/272,112	:	PATENT TERM ADJUSTMENT
Filed: November 10, 2005	:	
Atty Docket No. 16646US01	:	

This is a decision on the submission of September 3, 2010, which is being treated as a petition pursuant to 37 C.F.R. 1.705(d). Patentee requests that the patent term adjustment be corrected from one thousand, two hundred and sixty (1260) days to one thousand, two hundred and sixty-one (1261) days.

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

Patentee is given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under 37 C.F.R. § 1.136.

Application No. 11/272,112 matured into U.S. patent No. 7,750,974 on July 6, 2010, with a patent term adjustment of 1260 days.

The record supports a conclusion that this patent is not subject to a terminal disclaimer.

Patentee contests a single period of delay.

37 CFR 1.704(c)(10) states that circumstances that constitute a failure of the applicant to engage in reasonable efforts to

conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:

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

A notice of allowance was mailed on February 25, 2010. A Rule 1.312 amendment was filed on May 24, 2010, and a "Response to Rule 312 Communication" was mailed nine days later on June 2, 2010. This warrants a reduction of ten (not nine) days pursuant to 37 C.F.R. § 1.704(c)(10), as the date on which the supplemental response was filed is included in the period of delay.

It follows that the patent term adjustment of 1260 (799 examination delay plus 474 (603 over three years minus 129 overlap) B-delay minus 13 applicant delay) days, not 1261 days.

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

As the patent issued with the correct patent term adjustment, a certificate of correction is not required.

Any response to this decision should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail,[1] hand-delivery,[2] or facsimile.[3] Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web.[4]

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[1] Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
[2] Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
[3] (571) 273-8300 - please note this is a central facsimile number.
[4] https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html

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

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

TROP, PRUNER & HU PC
1616 S VOSS ROAD SUITE 750
HOUSTON TX 77057-2631

MAILED
OCT 11 2011
OFFICE OF PETITIONS

In re Application of :
Karpov, et al. :
Application No. 11/272,208 : ON PETITION
Filed: November 10, 2005 :
Attorney Docket No. ITO.0614US :
(P22543)

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

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

The holding of abandonment is **WITHDRAWN**.

The above-identified application was held abandoned for failure to timely file a court appeal of the Board Decision mailed on August 1, 2011. The Office mailed a Notice of Abandonment on September 8, 2011, noting that the period for seeking court review of the decision had expired.

37 CFR 1.304(a)(1) states in relevant part:

> The time for filing the notice of appeal to the U.S. Court of Appeals for the Federal Circuit (§ 1.302) or for commencing a civil action (§ 1.303) is **two months** from the date of the decision of the Board of Patent Appeals and Interferences (emphasis added).

In view thereof, it is obvious that the Notice of Abandonment was prematurely mailed.

With the instant petition, applicants have filed an RCE pursuant to 37 CFR 1.114.

37 CFR 1.198 states:

> When a decision by the Board of Patent Appeals and Interferences on appeal has become final for judicial review, prosecution of the proceeding before the primary examiner will not be reopened or reconsidered by the primary examiner except under the provisions of § 1.114 or § 41.50 of this title without the written authority of the Director, and then only for the consideration of matters not already adjudicated, sufficient cause being shown.

In view there, the RCE is a proper filing in response to the Board Decision.

A review of finance records reveals that Applicants were charged for the RCE filing fee twice - once on September 26, 2011, and again on September 28, 2011. Accordingly, $930 has been refunded to Deposit Account No. 20-1504.

The application is being forwarded to Group Art Unit 2814 for consideration of the RCE, filed September 28, 2011.

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

Cliff Congo
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : November 5, 2010

TO SPE OF : ART UNIT 2622

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/272218 Patent No.: 7646435

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
Randolph Square Building
2800 South Randolph Street
Arlington, VA 22206

Magdalene Talley

Certificates of Correction Branch
(571)272-0XXX

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** /LIN YE/ Supervisory Patent Examiner **Art Unit** 2422

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DIEDERIKS & WHITELAW, PLC
13885 HEDGEWOOD DR., SUITE 317
WOODBRIDGE VA 22193

MAILED

NOV 15 2010

OFFICE OF PETITIONS

In re Application of :
Kathy Wood Paulin :
Application No. 11/272,225 : DECISION ON PETITION
Filed: November 10, 2005 :
Attorney Docket. No.: 1078-P0002 :
For: APPARATUS AND METHOD FOR :
PRESENTING INFORMATION ON :
TRANSPARENT RESEALABLE STORAGE :
BAGS :

This is a decision on the petition filed under 37 CFR 1.137(b) in the above-identified application filed on October 8, 2010.

The petition is **GRANTED.**

This application became abandoned for failure to timely submit a reply to the non-final Office action mailed on October 31, 2008. The Notice set an extendable three-month reply period of January 31, 2009. Accordingly, this application became abandoned on February 1, 2009. A Notice of Abandonment was mailed on September 9, 2009.

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

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

This application is being referred to Technology Center AU 3782 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
www.uspto.gov

HAYNES AND BOONE, LLP
IP SECTION
2323 VICTORY AVENUE, SUITE 700
DALLAS, TX 75219

MAILED

AUG 02 2010

OFFICE OF PETITIONS

In re Application of :
Heng LIU :
Application No. 11/272,366 : DECISION ON PETITION TO
Filed: November 10, 2005 : WITHDRAW FROM RECORD
Attorney Docket No. **M-15625-1D US** :

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 22, 2010.

The request is **NOT APPROVED**.

The request to withdraw as attorney/agent of record and change of correspondence address is hereby not accepted. Petitioner has not complied with current USPTO requirements, set forth in 37 CFR 10.40 concerning Request for Withdrawal as Attorney and Change of Correspondence Address.

Petitioner has not properly submitted forwarding correspondence address information for the application.

The Office will no longer change the correspondence address to that of a new practitioner unless the Request is accompanied by a power of attorney to a new practitioner (e.g., Form PTO/SB/82). All future communications from the Office will be directed to the above-listed address until otherwise properly notified by the applicant or a proper change of correspondence address has been submitted.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272- 7253. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

THE INVENTION SCIENCE FUND
CLARENCE T. TEGREENE
11235 SE 6TH STREET
SUITE 200
BELLEVUE WA 98004

MAILED

NOV 22 2010

OFFICE OF PETITIONS

In re Patent No. 7,817,030
Issued: October 19, 2010
Application No. 11/272,455
Filed: November 9, 2005
Attorney Docket No.
0605-028-001H-000000

: LETTER REGARDING
: PATENT TERM ADJUSTMENT

This is a decision on the "PETITION FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT DETERMINATION PURSUANT TO 37 C.F.R. § 1.705(d)" filed on October 27, 2010, requesting that the patent term adjustment indicated on the above-identified patent be corrected from 946 days to 1114 days.

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

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

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

Patentee fails to account for the filing of a Notice of Appeal on December 11, 2009. The 181 days of the over three year period consumed by appellate review, beginning on December 11, 2009 and ending on June 10, 2010 are not included in the B delay. *See* 35 U.S.C. § 154(b)(1)(B)(ii). As such, the patent term adjustment is 946 (591 + 709 - 181 - 173) days, not 1114 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
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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OIW Jan-11

BARNES & THORNBURG LLP
11 SOUTH MERIDIAN
INDIANAPOLIS IN 46204

MAILED

JAN 07 2011

OFFICE OF PETITIONS

In re Application of :
Malcolm et al. :
Application Number: 11/272483 : DECISION GRANTING PETITION
Filing Date: 11/10/2005 :
Attorney Docket Number: 6573-76549 :

This is a decision on the renewed petition under 37 CFR 1.183, filed on October 25, 2010, seeking waiver of 37 CFR 1.67 and 1.175 where they require that a supplemental declaration be executed by a named inventor.

The petition is **GRANTED**.

REVIEW OF FACTS

1. On November 10, 2005, the application was filed as an application for reissue of U.S. Patent No. 6,822,530. The original application papers included a declaration in compliance with 37 CFR 1.63 and 1.175, naming Bruce G. Malcolm, Michael G. Pazoga, and Steven L. Sink as joint inventors.

2. On November 7, 2007, a non-final Office action was mailed, requiring a new reissue declaration because the reissue declaration filed with the original declaration was defective in that the error which is relied upon to support the reissue declaration is not an error upon which a reissue can be based.

3. On April 2, 2008, an amendment in response to the non-final Office action was filed, accompanied by a petition for a two (2) month extension of time and the initial petition under 37 CFR 1.183. A supplemental reissue declaration signed by joint inventor Malcolm on behalf of non-signing joint inventors Pazoga and Sink was filed. On August 7, 2008, the petition was dismissed.

4. On December 12, 2008, a renewed petition was filed. Petitioners asserted that joint inventor Sink has signed the reissue declaration, but that joint inventor Pazoga still cannot be located. A copy of a letter sent to joint inventor Pazoga's last known address, but returned as undeliverable, has been enclosed. A copy of the declaration signed by joint inventors Malcolm and Sink has been enclosed.

5. On May 14, 2010, the petition was dismissed for lack of a proper showing that joint inventor Pazoga could not be located, and because a proper supplemental reissue declaration had not been filed.

6. On October 25, 2010, the subject twice renewed petition was filed. Petitioners, via the statement of registered patent practitioner Richard D. Conard, that a copy of the declaration was sent to Pazoga's last known address, but that no response was received. Further, a new reissue declaration signed by joint inventors Malcolm and Sink has been provided.

DECISION ON PETITION UNDER 37 CFR 1.183 TO WAIVE §§ 1.67 AND 1.175

In view of the efforts recounted in the petition to locate and obtain the signature of Michael G. Pazoga, on the supplemental declaration in compliance with 37 CFR 1.175, it is agreed that justice would be served by waiving the requirement for the signature of joint inventor Pazoga on the supplemental declaration filed on October 25, 2010.

CONCLUSION

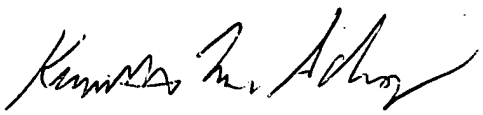
1. The petition is granted.

2. It is noted that a two (2)-month extension of time was submitted with the subject petition. A four (4)-month extension of time, however, is required to make the reply filed on October 25, 2010, a timely reply to the Decision Dismissing Petition mailed on May 14, 2010, which set a two (2)-month period for reply. Accordingly, counsel's deposit account will be charged an additional $1,240.00 for the difference between a four (4)-month extension of time ($1,730.00) and the two (2)-month extension of time ($490.00).

3. The application is being referred to Technology Center Art Unit 2816 for further processing.

4. Telephone inquiries related to this decision only should be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231.

5. Inquiries regarding petition status or general petition information are handled by the Office of Petitions staff at (571) 272-9282.



Kenneth M. Schor
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BROWDY AND NEIMARK, PLLC
1625 K STREET, NW
SUITE 1100
WASHINGTON, DC 20006

MAILED

JAN 21 2011

OFFICE OF PETITIONS

In re Application of	:	
Yehuda Binder	:	
Application No. 11/272,775	:	DECISION GRANTING PETITION
Filed: November 15, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. BINDER=15I	:	

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on September 22, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2471 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6/14/11

TO SPE OF : ART UNIT 1625

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/272,898 Patent No. 7,589,102

CofC mailroom date 6/9/11

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

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: /Zinna Northington Davis/

AU1625

/Janet L. Andres/ — SPE

1625 — Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 2/2/2012

TO SPE OF : ART UNIT 2624

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/272950 Patent No.: 8094928 B2

CofC mailroom date: 1/27/2012

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Note: _____

_____

Virginia Tolbert

Certificates of Correction Branch

(571) 272-0460

Thank You For Your Assistance

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

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

Comments: The Certificate of Correction Request dated 1/27/2012 is OK to be entered. /BK/ 2/14/2012

/Vu Le/ SPE

SPE

2624

Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FEB 10 2011

OFFICE OF PETITIONS

SIEMENS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
170 WOOD AVENUE SOUTH
ISELIN NJ 08830

In re Application of :
Shmuel Aharon et al. :
Application No. 11/273,187 : DECISION ON PETITION
Filed: November 14, 2005 :
Attorney Docket No. 2005P01287US01 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 28, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before June 1, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed March 1, 2010. Accordingly, the date of abandonment of this application is June 2, 2010. A Notice of Abandonment was mailed on June 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 payment of the issue fee of $1,510 and the publication fee of $300, (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay. Accordingly, the issue and publication fees are accepted as being unintentionally delayed.

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

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

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

/Kimberly A. Inabinet/

Kimberly A. Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ANDREW G. DINOVO
DINOVO PRICE ELLWANGER & HARDY LLP
7000 N. MOPAC EXPRESSWAY
SUITE 350
AUSTIN TX 78731

MAILED
JUL 29 2011
OFFICE OF PETITIONS

In re Application of	:	
Zhang et al.	:	
Application No. 11/273,188	:	DECISION ON PETITION
Filed: November 14, 2005	:	
Attorney Docket No. 55025-00003USC1	:	

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 Restriction Requirement mailed September 25, 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 timely obtained. Accordingly, the application became abandoned on October 27, 2009. A Notice of Abandonment was mailed April 9, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a response to the Restriction Requirement, (2) the petition fee of $1,620.00, and (3) a proper statement of unintentional delay.

Additionally, an extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $2,350.00, five- month extension of time fee submitted with the petition on July 12, 2011 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 Technology Center AU 3765 for appropriate action by the Examiner in the normal course of business on the reply received.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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GENERAL ELECTRIC COMPANY
GLOBAL RESEARCH
ONE RESEARCH CIRCLE
BLDG. K1-3A59
NISKAYUNA NY 12309

MAILED
OCT 27 2011
OFFICE OF PETITIONS

In re Application of :
Andrei Tristan Evulet :
Application No. 11/273,212 : ON PETITION
Filed: November 14, 2005 :
Attorney Docket No. **185813** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 30, 2011, to revive the above-identified application.

The petition is hereby **DISMISSED**.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed December 15, 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 March 16, 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 lacks item(s) (1).

As to item (1)

The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). *See* MPEP 711.03(c)(III)(A)(2). Since the amendment submitted on September 30, 2011, does not *prima facie* place the application in condition for allowance, the reply required must be a Notice of Appeal (and appeal fee), RCE, or the filing of a continuing application under 37 CFR 1.53(b). A copy of the Advisory Action explaining why the amendment was not accepted is enclosed with this decision.

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 JoAnne Burke at (571) 272-4584.

JoAnne Burke
Petitions Examiner
Office of Petitions

Enclosed: Copy of Advisory Action

Advisory Action Before the Filing of an Appeal Brief	**Application No.** 11/273,212	**Applicant(s)** EVULET, ANDREI TRISTAN	
	Examiner William H. Rodriguez	**Art Unit** 3741	

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

THE REPLY FILED 30 September 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: 1-19 and 29-31.
   Claim(s) objected to: 22 and 26.
   Claim(s) rejected: 20,21,23-25,27 and 28.
   Claim(s) withdrawn from consideration: 32-35.

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: Refer to attachment for explanation how the amended claims would be rejected .

/William H Rodriguez/
Primary Examiner, Art Unit 3741

Attachment to Advisory Action

Brief Explanation of how the amended claims would be rejected/anticipated by US 3,695,820.

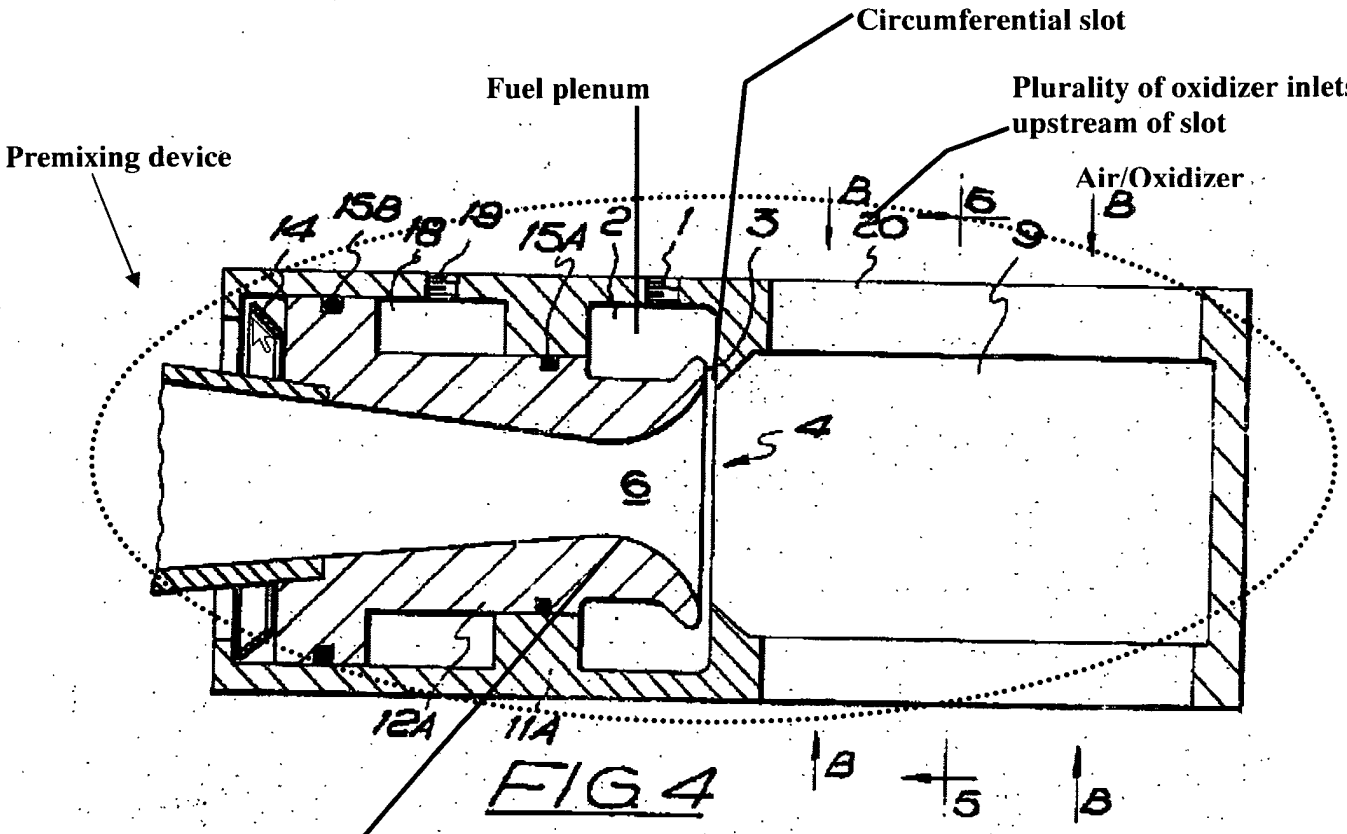

FIG 4

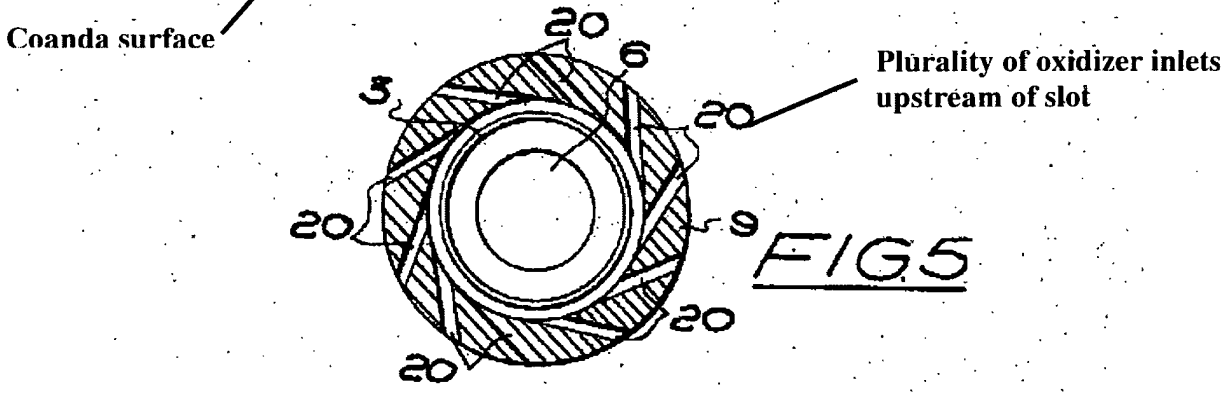

FIG 5

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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GENERAL ELECTRIC COMPANY
GLOBAL RESEARCH
ONE RESEARCH CIRCLE
BLDG. K1-3A59
NISKAYUNA NY 12309

MAILED
DEC 20 2011
OFFICE OF PETITIONS

In re Application of :
Andrei Tristan Evulet :
Application No. 11/273,212 : ON PETITION
Filed: November 14, 2005 :
Attorney Docket No. **185813** :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed December 9, 2011, to revive the above-identified application.

The petition is hereby **GRANTED**.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed December 15, 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 March 16, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $930, and the submission required by 37 CFR 1.114; (2) the petition fee of $1,860; and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 3741 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

/JoAnne Burke/
JoAnne Burke
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JURGEN VOLLRATH
588 SUTTER STREET #531
SAN FRANCISCO CA 94102

MAILED
APR 19 2011
OFFICE OF PETITIONS

In re Application of	:	
Hunter, Charles Eric	:	
Application No. 11/273,245	:	ON PETITION
Filed: November 14, 2005	:	
Attorney Docket No. 2908239-000004	:	

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

The petition is **GRANTED**.

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

Petitioner should note that the request is signed by the attorney of record; however it does not set forth a USPTO registration number. Petitioner should note that all documents submitted before the United States Patent and Trademark Office by a registered patent attorney must contain his/her registration number.

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

This matter is being referred to Technology Center AU 1784 for further processing of the Request for Continued Examination under 37 CFR 1.114 filed concurrently with the instant petition.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/273,270	11/10/2005	Rolf Hilgenfeld	195.62	3441

7590 03/09/2011

DIEDERIKS AND WHITELAW PLC
13885 HEDGEWOOD DRIVE
SUITE 317
WOODBRIDGE, VA 22193-7932

EXAMINER	
CHU, YONG LIANG	
ART UNIT	**PAPER NUMBER**
1626	
MAIL DATE	**DELIVERY MODE**
03/09/2011	PAPER

ACKNOWLEDGEMENT OF REQUEST

Notice of Allowance/Allowability Mailed

The request to print a color drawing reference as the first paragraph in the portion of the specification containing a brief description of the drawings as required by 37 CFR 1.84 and MPEP § 608.02 has been received by the United States Patent and Trademark Office and will be entered into the specification.

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

FORM PTOM327-5 (Rev. 02/08)

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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March 9, 2011

DIEDERIKS AND WHITELAW PLC
13885 HEDGEWOOD DRIVE
SUITE 317
WOODBRIDGE VA 22193-7932

In re Application of	:	
Hilgenfeld, Rolf et al	:	**DECISION ON PETITION**
Application No. 11/273,270	:	
Filed: 11/10/2005	:	***ACCEPTANCE OF COLOR***
Attorney Docket No. 195.62	:	***DRAWINGS***

This is a decision on the Petition to Accept Color Drawings under 37 C.F.R 1.84 (a) (2), received in the United States Patent and Trademark Office (USPTO) November 10, 2005.

The petition is **GRANTED**.

A grantable petition under 37 C.F.R. 1.84(a) (2) must be accompanied by the following.

1. The fee set forth under 37 C.F.R. 1.17(h),
2. Three (3) sets of the color drawings in question, or (1) set if filed via EFS, and
3. The specification contains appropriate language referring to the color drawings as the first paragraph in that portion of the specification relating to the brief description of the drawings.

The petition was accompanied by all of the required fees and drawings. The specification contains the appropriate language. Therefore, the petition is GRANTED.

Telephone inquires relating to this decision may be directed to the undersigned in the Office of Data Management at 571-272-4200.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No.

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NOV 22 2010

OFFICE OF PETITIONS

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

In re Patent No. 7,792,144	:	DECISION ON REQUEST
Rodgers	:	FOR
Issue Date: September 7, 2010	:	RECONSIDERATION OF
Application No. 11/273,282	:	PATENT TERM ADJUSTMENT
Filed: November 14, 2005	:	and
Atty Docket No. 16897US01	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition pursuant to 37 CFR 1.705(d), filed on November 2, 2010. Patentee has requested that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand, two hundred and nine (1209) 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 forty-seven (1147) days is **GRANTED to the extent indicated herein.**

The record supports a conclusion that this patent is not subject to a terminal disclaimer.

The period of examination delay of 705 days is not in dispute. The period of applicant delay of 92 days is not in dispute. The period of overlap of 35 (32 + 3) days is not in dispute. The over three years period of 662 days is not in dispute.

The sole item in dispute is the termination point of the excluded appellate period.

Both a notice of appeal and a "Pre-Appeal Brief Request for Review" were submitted on January 19, 2010. Thirty-one days later, on February 19, 2010, the Office mailed a "Notice of Panel Decision from Pre-Appeal Brief Review" which indicated:

> Reopen Prosecution - A conference has been held. The rejection is withdrawn and a new Office action will be mailed.

Ninety-two days after the filing of the notice of appeal, on April 21, 2010, a Notice of Allowance was mailed.

Patentee argues that the excluded appellate period totals 31 days, as it terminates with "the date prosecution was reopened."[1] **The Office holds that the excluded appellate period totals 92 days, as it terminates with the date on which the notice of allowance was mailed.**

Pursuant to 37 C.F.R. § 1.703(b)(4):

> (b) The period of adjustment under § 1.702(b) is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the sum of the following periods:
>
> (4) The number of days, if any, in the period beginning on the date on which a notice of appeal to the Board of Patent Appeals and Interferences was filed under 35 U.S.C. 134 and § 41.31 of this title and ending on the date of the last decision by the Board of Patent Appeals and Interferences or by a Federal court in an appeal under 35 U.S.C. 141 or a civil action under 35 U.S.C. 145, or on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first, if the appeal did not result in a decision by the Board of Patent Appeals and Interferences.
>
> Emphases added.

See also 35 U.S.C. § 154(b)(1)(B)(ii).

The excluded appellate period does not terminate with the mailing of the "Notice of Panel Decision from Pre-Appeal Brief Review." The pre-appeal brief conference is a PILOT program and not considered an action within the meaning of 35 U.S.C. § 132

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[1] Petition, page 3.

or a notice of allowance under 35 U.S.C. 151, and therefore does not stop the clock pursuant to 37 CFR § 1.703(b)(4).

As such, the patent term adjustment is increased by 1147 (705 days of examination delay plus 627 (662 over three years minus 35 days of overlap) "B-delay" minus the aforementioned excluded 93 days minus 92 days of Applicant delay) days, not 1209 days.

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

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand, one hundred and forty-seven (1147) days.**

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

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,792,144 B2

DATED : **September 7, 2010** **DRAFT**

INVENTOR(S) : Rodgers

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 1180 days

Delete the phrase "by 1180 days" and insert – by 1147 days--

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110421A

DATE : April 20, 2011

TO SPE OF : ART UNIT 2826

SUBJECT : Request for Certificate of Correction on Patent No.: 7473923

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:

/DAVIENNE MONBLEAU/
Supervisory Patent Examiner.Art Unit 2826

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: 60469-053	Patent Number: 7670240
Filing Date (or 371(b) or (f) Date): 10/04/2001	Issue Date: 03/02/2010
First Named Inventor: John Pitts	
Title: ELEVATOR BELT ASSEMBLY WITH NOISE REDUCING GROOVE ARRANGEMENT	

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 /David J. Gaskey/	Date 8-26-2010
Name (Print/Typed) David J. Gaskey	Registration Number 37179

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

☐ *Total of _____ forms are submitted.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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www.uspto.gov

CARLSON, GASKEY & OLDS, P.C.
400 WEST MAPLE ROAD
SUITE 350
BIRMINGHAM, MI 48009

Mail Date: 09/07/2010

Applicant	: Michael John Crossley	: DECISION ON REQUEST FOR
Patent Number	: 7669935	: RECALCULATION of PATENT
Issue Date	: 03/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/273,592	: OF WYETH
Filed	: 11/14/2005	:
		:

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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SNR DENTON US LLP
P.O. BOX 061080
CHICAGO IL 60606-1080

MAILED
MAR 28 2011
OFFICE OF PETITIONS

In re Application of
Gil Shmuel et al
Application No. 11/273,669
Filed: November 14, 2005
Attorney Docket No. 40024720-0001-002

ON PETITION

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

The petition is **DISMISSED**.

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

The application became abandoned for failure to timely reply to the nonfinal Office action mailed December 3, 2009. A Notice of Abandonment was mailed on June 11, 2010.

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

The petition filed December 23, 2010 is not signed. Also, the amendment filed with the instant petition reference Application No. 11/936,835, starting at page two (2).

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

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions
By internet:	EFS-Web www.uspto.gov/ebc/efs_help.html (for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

Cc:

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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SNR DENTON US LLP
P.O. BOX 061080
CHICAGO IL 60606-1080

MAILED

AUG 01 2011

OFFICE OF PETITIONS

In re Application of :
Gil Shmuel et al :
Application No. 11/273,669 : DECISION ON PETITION
Filed: November 14, 2005 :
Attorney Docket No. 40024720-0001-002 :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed July 24, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of 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 December 3, 2009, is accepted as having been unintentionally delayed.

The Power of Attorney submitted on July 24, 2011, is **not proper** because the Power of Attorney is signed by only one inventor.

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) 272-3208.

This application is being referred to Technology Center AU 1797 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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RUTAN & TUCKER, LLP.
611 ANTON BLVD
SUITE 1400
COSTA MESA CA 92626

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OFFICE OF PETITIONS

In re Application of	:	
MILLER	:	
Application No. 11/273,791	:	DECISION ON PETITION
Filed: November 14, 2005	:	TO WITHDRAW
Attorney Docket No. 021404.0013US1	:	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 10, 2012.

The request is **NOT APPROVED.**

A review of the file record indicates that Hani Z. Sayed 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 notified by 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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PERKINS COIE LLP
P.O. BOX 1208
SEATTLE, WA 98111-1208

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SEP 24 2010

OFFICE OF PETITIONS

In re Application of :
De Vries et al. :
Application No. 11/273,862 :
Filed: November 14, 2005 :
Attorney Docket No. 30126-8003.US01 :

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 3, 2010.

The request is **APPROVED**.

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

The request was signed by R. Michael Ananian, on behalf of the practitioners of record associated with Customer No. 22918.

Customer Number 22918 has been withdrawn as attorney of record. Applicant is reminded that there is no attorney of record at this time.

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

As no change of correspondence address was indicated the address will remain unchanged.

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

Alicia Kelley
Petitions Examiner
Office of Petitions

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
11/273,862	11/14/2005	Jeffrey de Vries	30126-8003.US01

CONFIRMATION NO. 7205

POWER OF ATTORNEY NOTICE

22918
PERKINS COIE LLP
P.O. BOX 1208
SEATTLE, WA 98111-1208

OC000000043684920

Date Mailed: 09/24/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/03/2010.

- 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.

/atkelley/

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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W. EDWARD RAMAGE
COMMERCE CENTER SUITE 1000
211 COMMERCE ST
NASHVILLE, TN 37201

MAILED
NOV 07 2011
OFFICE OF PETITIONS

In re Application of :
William Christopher Lotterhos, et. al. :
Application No. 11/273,882 : DECISION ON PETITION
Filed: November 15, 2005 :
Attorney Docket No. 2826820.000001 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 24, 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 mailed February 19, 2010. A Notice of Abandonment was mailed on June 10, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of $870 for payment of the issue fee and $300 for payment of the publication fee; (2) the petition fee of $930; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

MAILED
MAY 10 2011
OFFICE OF PETITIONS

In re Application of :
Andrew S. Brown :
Application No. 11/273,909 : DECISION ON PETITION
Filed: November 14, 2005 :
Attorney Docket No. AMD-050018S :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 25, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to properly reply in a timely manner to the final Office action mailed, July 6, 2010, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on October 7, 2010. A Notice of Abandonment was mailed on March 14, 2011.

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

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

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

This application is being referred to Technology Center AU 2895 for appropriate action by the Examiner in the normal course of business on the reply received March 25, 2011.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Andrew H. Auran
Kacvinsky Daisak, PLLC, c/o CPA Global
4500 Brooktree Road, Suite 302
Wexford, PA 15090

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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COURTNEY STANIFORD & GREGORY LLP
PO Box 9807
San Jose CA 95157

MAILED

OCT 21 2010

OFFICE OF PETITIONS

In re Application of :
IOURCHA et al. :
Application No. 11/273,915 : DECISION ON PETITION
Filed: 11/14/2005 :
Attorney Docket No. ATEC.P005 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 14, 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 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 January 2, 2010. On October 12, 2010, the Office mailed a Notice of Abandonment.

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

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

This application is being referred to Technology Center AU 2628 for appropriate action by the Examiner on the reply received on April 14, 2010.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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ICE MILLER LLP
ONE AMERICAN SQUARE, SUITE 3100
INDIANAPOLIS IN 46282-0200

MAILED

APR 29 2011

PCT LEGAL ADMINISTRATION

In re Application of
Wei J. Lo
Application No.: 11/273,927
Filed: November 15, 2005
Attorney Docket No.: P01333-US-00
For: SYNTHETIC BONE GRAFT BIOMATERIAL

DECISION ON PETITION

This decision is in response to applicant's "PETITION UNDER 37 C.F.R. § 1.78(a)(3)" and "PETITION UNDER 37 C.F.R. § 1.55(c)" dated February 07, 2011, requesting acceptance of an unintentionally delayed claim for priority under 35 U.S.C. 365(c) to international application PCT/GB2004/001946 and priority under 35 U.S.C. 119 (a)-(d) to Great Britain patent application number GB0311221.6.

I. Petition Under 37 CFR 1.78(a)(3)

The petition under 37 CFR 1.78(a)(3) is DISMISSED without prejudice.

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

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

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(I) of the prior-filed application, 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 fails to comply with item (1) above.

37 CFR 1.78(a)(2)(I) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications or international applications designating the United States 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) or international application number and international filing date 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. Here, the amendment submitted with the present petition indicates that "this application is a U.S. National Stage Application under 35 U.S.C. § 371 of co-pending and now expired International Patent Application No. PCT/GB2004/001946." The present nonprovisional application is considered a filing under 35 U.S.C. 111, as explained below. The amendment fails to state the proper relationship of the present application to international application number PCT/GB2004/001946 filed May 05, 2004. (See 37 CFR 1.78(a)(2)(I)) Therefore, the amendment filed February 07, 2011 fails to comply with the provisions of 37 CFR 1.78(a)(2)(I) and is therefore unacceptable.

It is noted that any intended filing of an international application as a national stage application must clearly and unambiguously be identified as such and must satisfy all of the conditions set forth in 35 U.S.C. 371(c). See 37 CFR 1.495(g):

> The documents and fees submitted . . . must be clearly identified as a submission to enter the national stage under 35 U.S.C. 371, otherwise the submission will be considered as being made under 35 U.S.C. 111.

In addition, section 1893.03(a), page 1800-190 of the MPEP (Eighth edition Rev. 5) states that:

> If there are any conflicting instructions as to whether the filing is under 35 U.S.C. 111(a) or 35 U.S.C. 371, the application will be accepted as filed under 35 U.S.C. 111(a).

On November 15, 2005, applicant submitted a transmittal letter entitled "Patent Application Transmittal Letter" for a Utility Patent Application Under 37 CFR 1.53(b). The submission of a transmittal letter for an utility patent application under 37 CFR 1.53(b) is inconsistent with an intent to enter the national stage of the PCT under 35 U.S.C. 371. Accordingly, the original papers deposited on November 15, 2005 were properly treated as a filing under 35 U.S.C. 111(a).

Therefore, before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition and either an Application Data Sheet (37 CFR 1.76(a)(5)) or a proper amendment (complying with the provisions of 37 CFR 1.121) to correct the above matters are required.

II. Petition 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 Commissioner 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 satisfy items (2) and (5).

The submitted claim to Great Britain application GB0311221.6 has not been included in either an oath or declaration or an ADS. In addition, since the above petition under 37 CFR 1.78 is not being granted at this time, the nonprovisional application is not considered filed within 12 months of the filing date of the foreign application.

Because applicant has concurrently requested acceptance of delayed priority claims under37 CFR 1.78 (a)(3) and 1.55 (c) only one surcharge fee is required. Applicant will be refunded the second surcharge payment of $1410 in due course.

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.

Any questions concerning this matter may be directed to Derek A. Putonen at (571) 272-3294.

Boris Milef
PCT Legal Examiner
Office of PCT Legal Administration

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)
7331829	2008-02-19	11273935	2005-11-15	TL1-0009US

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	/David A. Divine, Reg. No. 51,275/	Date (YYYY-MM-DD)	2012-03-26
Name	David A. Divine	Registration Number	51275

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 7331829
Issue Date: February 19,2008
Application No. 11273935
Filed: November 15,2005
Attorney Docket No. TL1-0009US

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

This is a decision on the electronic petition, filed March 26,2012 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of March 26,2012 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

HAHN LOESER & PARKS, LLP
ONE GOJO PLAZA
SUITE 300
AKRON OH 44311-1076

MAILED

SEP 09 2011

OFFICE OF PETITIONS

In re Application of :
Hausman et al. :
Application No. 11/274,018 : ON PETITION
Filed: November 15, 2005 :
Attorney Docket No. 201187.00002 :

This is a decision on the petition under 37 CFR 1.181, filed August 22, 2011, requesting the withdrawal of the holding of abandonment in the above-identified application and has been so treated.

The petition to withdraw the holding of abandonment is **GRANTED.**

The above-identified application was held abandoned for failure to timely reply to the final Office action mailed September 16, 2010, which set a shortened statutory period for reply of three (3) months. A reply was due on or before December 16, 2010, or on or before March 16, 2011, with a three (3) month extension of time. A Notice of Abandonment was mailed on June 9, 2011.

Petitioner states that the reply was in fact timely filed. To support this assertion, petitioner has submitted a copy of the Electronic Acknowledgement Receipt, which acknowledges receipt by the U.S. Patent and Trademark Office (USTPO) on March 16, 2011 of 1. Notice of Appeal; 2. Extension of Time; and 3. Fee Worksheet. Additionally, petitioner has supplied a copy of the previously mailed correspondence.

The reply acknowledged as having been received in the USPTO on March 16, 2011 has been located in the application file. Further, a review of USPTO financial records reflects payment of both the Notice of Appeal fee and the three (3) month extension of time fee on mailroom date March 16, 2011.

In view of the above, the holding of abandonment is hereby withdrawn and the application restored to pending status.

A petition to withdraw the holding of abandonment under the provisions of 37 CFR 1.181 does not require a fee and none has been charged.

The Notice of Appeal filed March 16, 2011, has been entered and made of record. Accordingly, the 2-month period for filing the appeal brief accompanied by the fee required by law, runs from the date of this decision.

This matter is being referred to Technology Center AU 3725 for further processing of the Notice of Appeal.

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

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

JAN 25 2011

OFFICE OF PETITIONS

PITTS AND BRITTIAN P C
P O BOX 51295
KNOXVILLE TN 37950-1295

In re Application:
Eric Johnson et al.
Application No. 11/274,026
Filed: November 15, 2005
Attorney Docket No. 30756.00

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed December 2, 2010. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

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

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

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

This file is being forwarded to Technology Center 3625.

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

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/274,065	11/14/2005	Aaron Keith Chamberlain	067461-5026-US	6129

67374 7590 05/23/2011
MORGAN, LEWIS & BOCKIUS, LLP (SF)
ONE MARKET SPEAR STREET TOWER
SAN FRANCISCO, CA 94105

EXAMINER	
DAHLE, CHUN WU	
ART UNIT	**PAPER NUMBER**
1644	
MAIL DATE	**DELIVERY MODE**
05/23/2011	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAY 23 2011

Robin M Silva
MORGAN, LEWIS & BOCKIUS, LLP (SF)
ONE MARKET SPEAR STREET TOWER
SAN FRANCISCO CA 94105

In re Application of	:
Chamberlain et al	:Decision on Petition
Serial No.:11/274,065	:
Filed: 14 November 2005	:
Attorney Docket No.:067461-5026US	:

This letter is in response to the Petition filed on 22 April 2010 under 37 C.F.R. 1.144 to request reconsideration of the restriction requirements mailed 28 December 2007 and 14 April 2008. The delay in acting upon this petition is regretted.

BACKGROUND AND DISCUSSION

The application, file history and petition have been considered carefully. Applicants request reconsideration of the restriction requirement, including the provisional election of species requirement.

In the response and election filed 28 January 2008, applicant elected with traverse, but did not include specific reasons for traversing the election of species requirement. See page 10 filed 28 January 2008:

Species Election

The Species Election required that Application was required to elect one specific Fc variant and to provide the following information with respect to the elected Fc variant.

A) specific modifications in the Fc region; AND
B) which, if any, of the functional limitations recited (e.g., in claims 23-27) are encompassed by the elected Fc variant.

Applicant hereby elects position 308 as the specific variant, **with traverse**.

As previous discussions with the Examiner have indicated, Applicants believe the Examiner will all examine all claimed substitutions at this position (308A, 308C, 308D, 308E, 308F, 308G, 308H, 308I, 308K, 308L, 308M, 308N, 308P, 308Q, 308R, 308S, 308T, 308W and 308Y).

In the unlikely event that the Examiner will only examine a subset of amino acids, the Applicants provisionally choose F, Y and W, with F being the single substitution that would be elected first.

The functional limitation associated with this position and amino acid modifications is increased binding to FcRn.

37 CFR 1.143 states:

> "If the applicant disagrees with the requirement for restriction, he may request reconsideration and withdrawal or modification of the requirement, giving the reasons therefor. (See § 1.111). In requesting reconsideration the applicant must indicate a provisional election of one invention for prosecution, which invention shall be the one elected in the event the requirement becomes final. The requirement for restriction will be reconsidered on such a request. If the requirement is repeated and made final, the examiner will at the same time act on the claims to the invention elected."

37 CFR 1.144 states, with emphasis added.

> After a final requirement for restriction, the applicant, in addition to making any reply due on the remainder of the action, may petition the Director to review the requirement. Petition may be deferred until after final action on or allowance of claims to the invention elected, but must be filed not later than appeal. *A petition will not be considered if reconsideration of the requirement was not requested* (see § 1.181).

If applicant does not distinctly and specifically point out supposed errors in the restriction Requirement, the election should be treated as an election without traverse the petition will not be considered.

Additionally, MPEP 818.03(a) states:

> "As shown by the first sentence of 37 CFR 1.143, the traverse to a requirement must be complete as required by 37 CFR 1.111(b) which reads in part: "In order to be entitled to reconsideration or further examination, the applicant or patent owner must reply to the Office action. The reply by the applicant or patent owner must be reduced to a writing which distinctly and specifically points out the supposed errors in the examiner's action and must reply to every ground of objection and rejection in the prior Office action. . . . The applicant's or patent owner's reply must appear throughout to be a bona fide attempt to advance the application or the reexamination proceeding to final action. . . ." Under this rule, the applicant is required to specifically point out the reasons on which he or she bases his or her conclusions that a requirement to restrict is in error. A mere broad allegation that the requirement is in error does not comply with the requirement of 37 CFR § 1.111. Thus the required provisional election (see MPEP § 818.03(b)) becomes an election without traverse."

Here, because applicant did not distinctly and specifically point out supposed errors in the restriction requirement, the election has been treated as an election without traverse.

The petition request under 37 CFR 1.181 is also found untimely because it was not filed within two months of the Office action from which relief is being requested.

DECISION

Accordingly, the petition under 37 CFR 1.144, or in the alternative, under 37 CFR 1.181 is **DISMISSED**.

Any request for reconsideration under 37 CFR 1.181 must be filed within TWO (2) MONTHS of the mail date of this petition decision.

The application will be forwarded to the Examiner to consider the papers filed 27 May 2010 and for preparation of an Office action consistent with this decision.

Should there be any questions regarding this decision, please contact Quality Assurance Specialist Julie Burke, by mail addressed to Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at (571) 272-0512 or by Official Fax at 571-273-8300.

George C. Elliott

George Elliott
Director, Technology Center 1600

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WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP
1250 CONNECTICUT AVENUE, NW
SUITE 700
WASHINGTON, DC 20036

Mail Date: 08/03/2010

Applicant	: Yoshihiro Nakata	: DECISION ON REQUEST FOR
Patent Number	: 7659357	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/274,094	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/16/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **732** 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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LOWE HAUPTMAN HAM & BERNER, LLP
1700 DIAGONAL ROAD
SUITE 300
ALEXANDRIA VA 22314

MAILED

MAY 09 2011

OFFICE OF PETITIONS

In re Application of :
Chien-Pin Huang :
Application No. 11/274,160 : DECISION ON PETITION
Filed: November 16, 2005 :
Attorney Docket No. 4647-082 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 25, 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 November 3, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on February 4, 2007. A Notice of Abandonment was mailed on June 1, 2007.

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

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

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

This application is being referred to Technology Center AU 2833 for appropriate action by the Examiner in the normal course of business on the reply received March 25, 2011.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Chien-Pin Huang
7F, No. 13, Lane 222, Tun-Hua N. Rd.
Taipei, Taiwon, R.O.C.

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MAR 17 2011

OFFICE OF PETITIONS

SUGHRUE-265550
2100 PENNSYLVANIA AVE., NW
WASHINGTON DC 20037-3213

In re Application of	:	
Atsushi Maeda et al	:	
Application No. 11/274,170	:	DECISION GRANTING PETITION
Filed: November 16, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. Q91515	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 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 February 17, 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 3723 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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SUGHRUE-265550
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WASHINGTON DC 20037-3213

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AUG 02 2011
OFFICE OF PETITIONS

In re Application of :
Atsushi Maeda et al :
Application No. 11/274,170 : DECISION GRANTING PETITION
Filed: November 16, 2005 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. Q91515 :

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on July 11, 2011cannot 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 3723 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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OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA VA 22314

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OCT 21 2010

OFFICE OF PETITIONS

In re Application of :
Ki Jong Kim et al. :
Application No. 11/274,330 :
Filed: November 16, 2005 :
Attorney Docket No. **280899US8** :

NOTICE

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 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) 272-4584.

JoAnne Burke
Petitions Examiner
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	11/274,361	Confirmation Number	5419	Filing Date	2005-11-15
Attorney Docket Number (optional)	PPI-101US	Art Unit	3764	Examiner	DIXON, Annete
First Named Inventor	PIDCOCK, Ralph M.				
Title of Invention	Method and Apparatus for Relieving Leg Cramps and Massaging Muscles				

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
Ralph	M.	Pidcock	

A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18.
Please see 37 CFR 1.4(d) for the format of the signature.

Select (1) or (2) :

○ (1) I am an inventor in this application and I am 65 years of age, or more.

◉ (2) I am an attorney or agent registered to practice before the Patent and Trademark Office, and I certify that I am in possession of evidence, and will retain such in the application file record, showing that the inventor listed above is 65 years of age, or more.

Signature	/James C. Simmons/	Date (YYYY-MM-DD)	2011-05-09
Name	James C. Simmons	Registration Number	24842

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.

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In re Application of
Ralph M. Pidcock

Application No. 11274361

Filed: November 15,2005

Attorney Docket No. PPI-101US

:
:
: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 09-MAY-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.

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OFFICE OF PETITIONS

In re Application of	:	
Da-Hai Ding	:	
Application No. 11/274,514	:	DECISION ON PETITION
Filed: February 2, 2004	:	
Attorney Docket No. BA0446C (NORT10-00386)	:	

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**.

This application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed December 23, 2009, no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned by operation of law on February 24, 2010. *See* MPEP 1215.04. A Notice of Abandonment was mailed August 3, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Appeal Brief and fee of $540; (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) 272-6059.

This application is being referred to Technology Center AU 2462 for appropriate action by the Examiner in the normal course of business on the reply received October 28, 2010.

Alicia Kelley
Petitions Examiner
Office of Petitions

cc: JOSHUA D. MATHER
CHAPIN IP LAW, LLC
1700 WEST PARK DRIVE, SUITE 280
WESTBOROUGH, MA 01581

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : October 5, 2010

TO SPE OF : ART UNIT 1626 - SPE Joseph K. McKane

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/274,611 Patent No.: 7,456,200 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
Randolph Square Building
2800 South Randolph Street
Arlington, VA 22206

Antonio Johnson

Should the text in claim 1, column 201, lines 42-57 in printed patent, be deleted as requested by applicant? See COCIN dated 09-13-2010

_____
Certificates of Correction Branch
(571)272-0483

Thank You For Your Assistance

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

X Approved (/RA/ 10/12/10)	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: The corrections are approved /RA/ 10/12/20

_____

_____

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

SPE

/Joseph K. McKane/ Art Unit 1626

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WIGGIN AND DANA LLP
ATTENTION: PATENT DOCKETING
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NEW HAVEN CT 06508-1832

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SEP 27 2010

OFFICE OF PETITIONS

In re Patent No. 7,471,216	:	
Issue Date: December 30, 2008	:	
Application No. 11/274,621	:	ON PETITION
Filed: November 15, 2005	:	
Attorney Docket No. 102691-200	:	

This is a decision on the petition filed July 26, 2010, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to Diane Goodwyn at (571) 272-6735. 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.

Thurman K. Page
Petitions Examiner
Office of Petitions

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

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TEKTRONIX, INC.
14150 SW KARL BRAUN DRIVE
P.O. BOX 500, M/S 50-LAW
BEAVERTON, OR 97077

In re Application of :
Daniel G. Baker, et al. :
Application No. 11/274,687 : ON PETITION
Filed: November 14, 2005 :
Attorney Docket No.: 8065 US :

This is a decision in response to the petition under 37 CFR 1.137(b), filed January 9, 2012, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for a failure to timely pay the issue and publication fees on or before December 20, 2011, as required by the Notice of Allowance and Fee(s) Due, mailed September 20, 2011, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on December 21, 2011. A Notice of Abandonment was subsequently mailed on January 9, 2012. On January 9, 2012, the present petition was filed.

Petitioner request that the application be revived for consideration of a Request for Continued Examination (RCE) under 37 CFR 1.114. However, in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply under 37 CFR 1.137(b) must be the payment of the issue fee or any outstanding balance thereof. Accordingly, the $1,740 issue fee is being charged to counsel's deposit account as authorized.

The application is revived for consideration of a submission under 37 CFR 1.114 (request for continued examination).

Petitioner is advised that the issue fee paid in the above-identified application cannot be refunded. However, if the above-identified application is again allowed, petitioner may request that the issue fee paid on January 9, 2012, be applied towards the issue fee required by the new Notice of Allowance.

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

The application file is being forwarded to Technology Center AU 2611 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.

/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
Alexandria, VA 22313-1450
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Decision Date : October 25,2011

In re Application of :

Gary Michelson

Application No : 11274698

Filed : 15-Nov-2005

Attorney Docket No : 101.0086-02000

DECISION ON PETITION

UNDER CFR 1.137(b)

This is an electronic decision on the petition under 37 CFR 1.137(b), filed October 25,2011 , to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Allowance and Issue Fee(s) Due. The date of abandonment is the day after the expiration date of the period set for reply in the Notice.

The electronic petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the Issue Fee and the Publication Fee (if necessary); (2) the petition fee as set forth in 37 CFR 1.17 (m); (3) the drawing correction and/or other deficiencies (if necessary); and (4) the required statement of unintentional delay have been received. Accordingly, the Issue Fee payment is accepted as having been unintentionally delayed.

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

This application file is being directed to the Office of Data Management.

Office of Petitions

Doc Code: PET.AUTO Document Description: Petition automatically granted by EFS-Web	PTO/SB/64 U.S. Patent and Trademark Office Department of Commerce

Electronic Petition Request	PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)
Application Number	11274698
Filing Date	15-Nov-2005
First Named Inventor	Gary Michelson
Art Unit	3775
Examiner Name	LARRY WAGGLE, JR
Attorney Docket Number	101.0086-02000
Title	METHOD FOR PREPARING A SPACE IN BONE TO RECEIVE AN INSERT

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 must accompany ePetition.

Publication Fee is 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 02-24-2010 ◯ 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	/Amedeo F. Ferraro/
Name	Amedeo F. Ferraro
Registration Number	37129

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Paper No.

John Eric DeTitta
4422 Crystal Brecze St
Raleigh NC 27614

MAILED

MAY 09 2011

OFFICE OF PETITIONS

In re Application of :
John DeTitta : DECISION ON PETITION
Application No. 11/274,706 :
Filed: November 14, 2005 :
Atty Docket No. 26869.000 :

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) filed April 13, 2011.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely file a reply to the non-final Office action mailed May 21, 2008. A reply was filed on November 28, 2008; however, no proper extension of time and fee accompanied the reply (See NOTICE REQUIRING EXTENSION OF TIME FEE mailed February 2, 2009). No proper extension of time was filed prior to the expiration of the maximum period for reply. Accordingly, the application became abandoned effective at the end of the shortened statutory period for reply, August 22, 2008. A courtesy Notice of Abandonment was mailed on September 15, 2009.

It is noted that despite the abandoned status of the application, a Notice of Non-compliant Amendment (37 CFR 1.121) was mailed on January 13, 2009.

Petitioner has satisfied the requirements of 37 CFR 1.137(b). The petition includes the required reply in the form of an amendment, the petition fee, and the required statement of unintentional delay.

The application is being forwarded to Technology Center AU 3688 for consideration of the response submitted on petition filed April 13, 2011.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Fox Rothschild, LLP
Elan Pharma International Limited
997 Lenox Drive, Bldg. #3
Lawrenceville NJ 08648

MAILED
JUN 15 2011
OFFICE OF PETITIONS

In re Patent of Liversidge et al.	:	DECISION ON REQUEST
Patent No. 7,910,577	:	FOR RECONSIDERATION OF
Issue Date: March 22, 2011	:	PATENT TERM ADJUSTMENT
Application No. 11/274,887	:	and
Filed: November 16, 2005	:	NOTICE OF INTENT TO ISSUE
Docket No. 34074.00622/01.0123.US	:	CERTIFICATE OF CORRECTION

This is a decision on the petition, filed May 23, 2011, under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand four hundred fifteen (1415) days.

The petition is **granted**.

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 maximum B delay period begins on November 17, 2008, which is one day after three years after the filing of the application on November 16, 2005, and ends on March 22, 2011, when the patent issued.

As stated in 35 U.S.C. 154(b)(1)(B)(ii), B delay does not include "any time consumed by appellate review by the Board of Patent Appeals and Interferences." The period of B delay does not include the 472 day period beginning on June 17, 2009, the date the Notice of Appeal was filed, and ending on October 1, 2010, the date the Board of Patent Appeals and Interferences issued a decision reversing the examiner. Excluding the 472 days consumed by appellate review results in a period of B delay of 384 days (856 - 472).

Although the 472 days consumed by appellate review is not part of the period of B delay, the 472 days does constitute delay under 35 U.S.C. 154(b)(1)(C) ("C delay"). In other words, the successful appellate period of 472 days is counted against the Office as a separate adjustment pursuant to 37 CFR 1.702(e) as C delay.

In light thereof, the correct patent term adjustment is 1415 days, which is the sum of 559 days of delay under 35 U.S.C. 154(b)(1)(A) and 384 days of B Delay and 472 days of C Delay.

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

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

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted **by one thousand four hundred fifteen (1415)** days.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

CC: TARA RACHINSKY
FOX ROTHSCHILD LLP
2000 MARKET STREET, 20TH FLOOR
PHILADELPHIA PA 19103-3291

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,910,577 B2

DATED : **March 22, 2011** **DRAFT**

INVENTOR(S) : Liversidge 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 1167 days

Delete the phrase "by 1167 days" and insert – by 1415 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	11274913
Filing Date	14-Nov-2005
First Named Inventor	Ji-Hoon Kim
Art Unit	2629
Examiner Name	KEVIN NGUYEN
Attorney Docket Number	PNK0190US
Title	DISPLAY DEVICE AND DRIVING METHOD THEREOF

An application may be withdrawn from issue for further action upon petition by the applicant. To request that the Office withdraw an application from issue, applicant must file a petition under this section including the fee set forth in § 1.17(h) and a showing of good and sufficient reasons why withdrawal of the application from issue is necessary.

APPLICANT HEREBY PETITIONS TO WITHDRAW THIS APPLICATION FROM ISSUE UNDER 37 CFR 1.313(c).

A grantable petition requires the following items:
(1) Petition fee; and
(2) One of the following reasons:
(a) Unpatentability of one or more claims, which must be accompanied by an unequivocal statement that one or more claims are unpatentable, an amendment to such claim or claims, and an explanation as to how the amendment causes such claim or claims to be patentable;
(b) Consideration of a request for continued examination in compliance with § 1.114 (for a utility or plant application only); or
(c) Express abandonment of the application. Such express abandonment may be in favor of a continuing application, but not a CPA under 37 CFR 1.53(d).

Petition Fee

☐ Applicant claims SMALL ENTITY status. See 37 CFR 1.27.

☐ Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

☐ Applicant(s) status remains as SMALL ENTITY.

☒ Applicant(s) status remains as other than SMALL ENTITY

Reason for withdrawal from issue

◯ One or more claims are unpatentable ◉ Consideration of a request for continued examination (RCE) (List of Required Documents and Fees) ◯ Applicant hereby expressly abandons the instant application (any attorney/agent signing for this reason must have power of attorney pursuant to 37 CFR 1.32(b)).
RCE request,submission, and fee. ☐ I certify, in accordance with 37 CFR 1.4(d)(4) that : The RCE request ,submission, and fee have already been filed in the above-identified application on ☒ Are attached.
THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES I certify, in accordance with 37 CFR 1.4(d)(4) that I am: ◉ An attorney or agent registered to practice before the Patent and Trademark Office who has been given power of attorney in this application. ◯ An attorney or agent registered to practice before the Patent and Trademark Office, acting in a representative capacity. ◯ A sole inventor ◯ A joint inventor; I certify that I am authorized to sign this submission on behalf of all of the inventors ◯ A joint inventor; all of whom are signing this e-petition ◯ The assignee of record of the entire interest that has properly made itself of record pursuant to 37 CFR 3.71

Signature	/James J. Merrick/
Name	James J. Merrick
Registration Number	43801

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Decision Date : June 9,2011

In re Application of :

Ji-Hoon Kim

DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 11274913

Filed : 14-Nov-2005

Attorney Docket No : PNK0190US

This is an electronic decision on the petition under 37 CFR 1.313(c)(2), filed June 9,2011 , to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid 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

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

MAILED
OCT 18 2011
OFFICE OF PETITIONS

In re Patent No. 7,321,133 :
Issued: January 22, 2008 :
Application No. 11/274,918 : ON PETITION
Filed: November 16, 2005 :
Attorney Docket No. 043419-0119 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed September 20, 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12/07/10

TO SPE OF : ART UNIT 3742

SUBJECT : Request for Certificate of Correction for Appl. No.: 11274953 Patent No.: 7800017

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 Director's SPE response to 571-270-9990

Lamonte Newsome
Certificates of Correction Branch
571-272-3421

Thank You For Your Assistance

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

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

Comments: _____

_____

_____

_____

_____

/Tu Hoang/
3742

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

SPE

Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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Robert J Doherty
10 George St
Barrington RI 02806

MAILED

MAR 06 2012

OFFICE OF PETITIONS

In re Application of	:	
Ronald D. Russo	:	
Application No. 11/274,995	:	DECISION ON PETITION
Filed: November 16, 2005	:	TO MAKE SPECIAL UNDER
Attorney Docket No. RR-1	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed February 21, 2012, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a statement by an attorney on behalf of inventor Ronald D. Russo, attesting to his/her age. The above-identified application has been accorded "special" status.

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

The application is being forwarded to Technology Center 3763 for action on the merits commensurate with this decision.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MARSHALL, GERSTEIN & BORUN LLP
233 SOUTH WACKER DRIVE
6300 WILLIS TOWER
CHICAGO IL 60606-6357

MAILED

SEP 07 2010

OFFICE OF PETITIONS

In re Patent No. 7,159,494 :
Issue Date: January 9, 2007 :
Application No. 11/275,086 : NOTICE
Filed: December 8, 2005 :
Attorney Docket No. 31007/32006 :

This is a notice regarding your request, August 4, 2010, for acceptance of a fee deficiency submission under 37 CFR 1.28.

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

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

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

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

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

Liana Walsh
Petitions Examiner
Office of Petitions

cc: KENDAL M. SHEETS
CPA GLOBAL
225 REINEKERS LANE, SUITE 400
ALEXANDRIA, VA 22314

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAILED

SEP 07 2010

Technology Center 2100

Elizabeth J. Reagan
Merchant & Gould P.C.
P.O. Box 2903
Minneapolis, MN 55402-0903

In re Application of:
David D. Staube et al
Appl. No.: 11/275,116
Filed: December 12, 2005
For: Urgent Replication Facility

DECISION ON PETITION
UNDER 37 CFR § 1.59

This is a decision on a renewed petition under 37 CFR § 1.59(b) filed on August 13, 2010 to expunge information submitted pursuant to MPEP § 724.05.

The petition is **GRANTED**.

Petitioner requests that the information submitted on 13 November 2007 and 28 November 2007 be expunged from the record if found not to be important to a reasonable examiner in deciding whether to allow the application to issue as a patent. No additional fee was required.

During prosecution on the merits, the examiner determined that the information submitted on 13 November 2007 and 28 November 2007 was not "material." Prosecution on the merits is closed.

The identified documents will be expunged.

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3591

/Gail Hayes/

Gail Hayes, SPRE/QAS
Technology Center 2100
Computer Architecture and Software

UNITED STATES PATENT AND TRADEMARK OFFICE

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.
11/275,116	12/12/2005	Dave D. Straube	14917.207USC2	1150

27488 7590 09/07/2010
MERCHANT & GOULD (MICROSOFT)
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

EXAMINER	
NGUYEN, VAN H	
ART UNIT	PAPER NUMBER
2194	

MAIL DATE	DELIVERY MODE
09/07/2010	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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WORKMAN NYDEGGER/MICROSOFT
1000 EAGLE GATE TOWER
60 EAST SOUTH TEMPLE
SALT LAKE CITY UT 84111

MAILED

AUG 1 6 2010

OFFICE OF PETITIONS

In re Application of :
Joseph F. Stacy :
Application No. 11/275,131 : DECISION ON PETITION
Filed: December 13, 2005 :
Attorney Docket No. **13768.964.7** :

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**.

This application became abandoned for failure to timely pay the issue and publication fees on or before May 26, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed February 26, 2010. Accordingly, the date of abandonment of this application is May 27, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,510 and the publication fee of $300, (2) the petition fee of $1,620; and (3) a proper statement of unintentional delay.

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
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MERCHANT & GOULD
SCIENTIFIC ATLANTA, A CISCO COMPANY
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

MAILED

SEP 20 2010

OFFICE OF PETITIONS

In re Application of :
Dean F. JERDING, et *al.* :
Application No. 11/275,233 : DECISION GRANTING PETITION
Filed: December 20, 2005 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. :
60374.0004USD9/CPOL966142

This is a decision on the petition under 37 CFR 1.313(c)(2), filed September 17, 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 23, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 2427 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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MERCHANT & GOULD
SCIENTIFIC ATLANTA, A CISCO COMPANY
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

MAILED

APR 25 2011

OFFICE OF PETITIONS

In re Application of :
Dean F. JERDING, et *al.* :
Application No. 11/275,233 : DECISION GRANTING PETITION
Filed: December 20, 2005 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. :
60374.0004USD9/CPOL966142

This is a decision on the petition under 37 CFR 1.313(c)(2), filed April 25, 2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on March 9, 2011 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 2427 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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MERCHANT & GOULD
SCIENTIFIC ATLANTA, A CISCO COMPANY
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

MAILED

AUG 05 2011

OFFICE OF PETITIONS

In re Application of :
Dean F. JERDING, *et al.* :
Application No. 11/275,233 : DECISION GRANTING PETITION
Filed: December 20, 2005 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. :
60374.0004USD9/CPOL966142

This is a decision on the petition under 37 CFR 1.313(c)(2), filed August 3, 2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on May 17, 2011 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 2427 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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

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

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SCIENTIFIC ATLANTA, A CISCO COMPANY
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

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APR 25 2011

OFFICE OF PETITIONS

In re Application of :
Dean F. JERDING, et *al.* :
Application No. 11/275,245 : DECISION GRANTING PETITION
Filed: December 20, 2005 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. :
60374.0004USD8/CPOL966143

This is a decision on the petition under 37 CFR 1.313(c)(2), filed April 25, 2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on March 7, 2011 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 2427 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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

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

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AUG 03 2011
OFFICE OF PETITIONS

In re Application of :
Dean F. Jerding et al :
Application No. 11/275,245 : DECISION GRANTING PETITION
Filed: December 20, 2005 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. :
60374.0004USD8/CPOL966143

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on May 17, 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 2427 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).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 02/13/12

TO SPE OF : ART UNIT 2427

SUBJECT : Request for Certificate of Correction for Appl. No.: 11275245 Patent No.: 8037504

CofC mailroom date: 01/19/12

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Note: Should the changes to the Inventorship 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

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

Comments: The changes to inventorship are to fix a typographical error only.

/Scott Beliveau/ _2427___

SPE **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 02/13/12

TO SPE OF : ART UNIT 2427

SUBJECT : Request for Certificate of Correction for Appl. No.: 11275245 Patent No.: 8037504

CofC mailroom date: 01/19/12

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580
[redacted] Director SPE response to 571-273-3421

Note: Should the changes to the Inventorship 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

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

Comments: The changes to inventorship are to fix a typographical error only.

/Scott Beliveau/ 2427

SPE **Art Unit**

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MICROSOFT CORPORATION
ONE MICROSOFT WAY
REDMOND, WA 98052

MAILED
MAY 24 2011
OFFICE OF PETITIONS

In re Application of	:	
Harry R. Chesley	:	
Application No. 11/275,305	:	DECISION GRANTING PETITION
Filed: December 22, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 141494.02	:	

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 31, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2457 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

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

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

cc: JEFFREY L. COSTELLIA
NIXON PEABODY, LLP
401 9TH STREET NW
SUITE 900
WASHINGTON, DC 20004

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M/S EVR 1-C-11
PLANO TX 75024

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DEC 15 2010

OFFICE OF PETITIONS

In re Application of :
Anisse Taleb et al. :
Application No. 11/275,325 : DECISION ON PETITION
Filed: December 22, 2005 :
Attorney Docket No. **P21382-US1** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 21, 2008, 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 February 12, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on May 13, 2008.

The petition is hereby **GRANTED**.

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

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

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

JoAnne Burke
Petitions Examiner
Office of Petitions

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Joe Basista
Facet Solutions, Inc.
45 South Street
Hopkinton, MA 01748

Mail Date: 01/12/2011

Applicant	: Mark A. Reiley	: DECISION ON REQUEST FOR
Patent Number	: 7608106	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/275,448	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/03/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **141** 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

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

In re Patent of Golle et al. :
Patent No. 7,690,049 :
Issue Date: April 16, 2010 : DECISION ON REQUEST
Application No. 11/275,504 : FOR RECONSIDERATION OF
Filing Date: January 10, 2006 : PATENT TERM ADJUSTMENT
Attorney Docket No. 1748.013US1 :

This is a decision on the petition filed June 7, 2010, which is being treated as a petition under 37 C.F.R. § 1.705(d) requesting the patent term adjustment indicated on the patent be corrected to indicate the term of the patent is extended or adjusted by six hundred eighty-nine (689) days.

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

The patent issued April 16, 2010. The patent set forth a patent term adjustment determination of 636 days. This request for reconsideration was timely filed within two months of the issue date of the patent.

Patentees state the correct patent term adjustment is 689 days, not 636 days, based on an assertion the correct total period of Office delay is 837 days, not 784 days.

The period of delay under 35 U.S.C. § 154(b)(1)(A) ("A Delay") is 333 days.

The period of delay under 35 U.S.C. § 154(b)(1)(B) ("B Delay") is 451 days.

The sum of the 333 days of A Delay and 451 days of B Delay is 837 days. However, the total period of Office delay is not 837 days.

35 U.S.C. § 154(b)(2)(A) limits Office delay to the sum of A Delay and B Delay to the extent such periods of delay are not overlapping. The number of days of overlap between the period of A Delay and B Delay is 53 days.

Since the period of overlap is 53 days, the total period of Office delay is 784 days, which is the sum of 333 days of A Delay and 451 days of B Delay reduced by 53 days of overlap.

In view of the prior discussion, the patent term adjustment remains 636 days as set forth on the patent.

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

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

DORT PATENT, P.C.
BOX 320069
Alexandria VA 22320

In re Application of :
Castiel, et al. :
Application No. 11/275,566 : ON PETITION
Filed: January 17, 2006 :
Attorney Docket No. ELLP.P024.B :

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

The petition is **DISMISSED**.

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 March 31, 2009 for failure to timely submit a proper reply to the non-final Office action mailed December 30, 2008. The non-final Office action set a three month shortened statutory period of time for reply. No extension of time pursuant to 37 CFR 1.136(a) was sought. Notice of Abandonment was mailed September 16, 2009.

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

The instant petition fails to comply with requirement (1) set forth above. The reply submitted herewith references an amendment and remarks. The amendment, however, does not appear to have been submitted with the instant petition.

Any request for reconsideration must include a proper and complete reply to the non-final Office action mailed December 30, 2008.

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.**

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) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

CC: David Bogart Dort
119 S. Asaph
Alexandria, VA 22134

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DORT PATENT, P.C.
BOX 320069
Alexandria VA 22320

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DEC 14 2010

OFFICE OF PETITIONS

In re Application of :
Castiel, et al. :
Application No. 11/275,566 : ON PETITION
Filed: January 17, 2006 :
Attorney Docket No. ELLP.P024.B :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 17, 2010, to revive the above-identified application. This decision mailed December 7, 2010 is hereby VACATED.

The petition to revive is **GRANTED**.

The application became abandoned March 31, 2009 for failure to timely submit a proper reply to the non-final Office action mailed December 30, 2008. The non-final Office action set a three month shortened statutory period of time for reply. No extension of time pursuant to 37 CFR 1.136(a) was sought. Notice of Abandonment was mailed September 16, 2009.

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

The petition has been carefully reviewed and found in compliance with the provisions set forth above.

This application is being forwarded to Group Art Unit 2618 for further processing.

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) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
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 1965, 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**

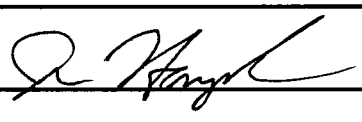
Attorney Docket Number:	15146-0028001		
Application Number:	11/275,573	Filing Date (or 371(b) or (f) Date):	January 17, 2006
Patent Number:	7,663,698	Issue Date:	February 16, 2010
First Named Inventor:	Tomomi Hara		
Title:	GENLOCK DEVICE HAVING LOG AND ALARM FUNCTIONS		

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	8/16/10
Name: (Print/Type)	John F. Hayden		Registration Number: 37640

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

Mail Date: 08/20/2010

Applicant	: Tomomi Hara	: DECISION ON REQUEST FOR
Patent Number	: 7663698	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/275,573	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/17/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1067** 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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Decision Date : April 6,2011

In re Application of :

Joseph Iannicelli

Application No : 11275591

Filed : 18-Jan-2006

Attorney Docket No : 001025.00003

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 Paul M. Rivard (registration no. 43446) on behalf of all attorneys/agents associated with Customer Number 22907 . All attorneys/agents associated with Cusotmer Number 22907 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 Joseph Iannicelli

Name2

Address 1 3963 Darien Highway

Address 2

City Brunswick

State GA

Postal Code 31525

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	11275591
Filing Date	18-Jan-2006
First Named Inventor	Joseph Iannicelli
Art Unit	1767
Examiner Name	PETER GODENSCHWAGER
Attorney Docket Number	001025.00003
Title	METHOD AND COMPOSITION FOR CONTROLLED HEAT RELEASE AND DISPOSABLE CHEMICAL HEATER UTILIZING SAME

◉ Please withdraw me as attorney or agent for the above identified patent application and the practitioners of record associated with Customer Number: 22907

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	Joseph Iannicelli
Address	3963 Darien Highway
City	Brunswick
State	GA
Postal Code	31525
Country	US

I am authorized to sign on behalf of myself and all withdrawing practitioners.	
Signature	/Paul M. Rivard/
Name	Paul M. Rivard
Registration Number	43446

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

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

MAILED

SEP 20 2010

OFFICE OF PETITIONS

In re Application of :
Roberto A. MOTTERLINI, *et al.* :
Application No. 11/275,780 : DECISION ON PETITION
Filed: January 27, 2006 : UNDER 37 CFR 1.8(b)
Attorney Docket No. **H0817.70000US01** :

This is a decision on the petition, filed July 29, 2009, which is being treated as a petition under 37 CFR 1.8(b), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the Non-Compliant Notice of January 30, 2009, which set a one (1) month shortened statutory period for reply. Accordingly, a reply was due on or before February 28, 2009.

Petitioner states that a timely reply was mailed on July 29, 2009, which included the following papers: a supplemental response and five (5) month extension of time. The previously mailed correspondence bears a certificate of mailing dated July 29, 2009, which rendered the reply timely.

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 Office action of January 30, 2009 is hereby withdrawn and the application restored to pending status.

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

This application is being referred to Technology Center AU 1615 for appropriate action in the normal course of business on the reply received.

Thurman K. Page
Petitions Examiner
Office of Petitions

Attachment: Corrected Filing Receipt

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United States Patent and Trademark Office
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/275,780	01/27/2006	1615	1400	H0817.70000US01	12	5

CONFIRMATION NO. 2109

23628
WOLF GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON, MA 02210-2206

CORRECTED FILING RECEIPT

OC000000043552269

Date Mailed: 09/17/2010

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

Applicant(s)

Roberto Angelo MOTTERLINI, Middlesex, UNITED KINGDOM;
Brian Ernest Mann, Sheffield, UNITED KINGDOM;

Power of Attorney: The patent practitioners associated with Customer Number 23628

Domestic Priority data as claimed by applicant

This application is a DIV of 10/143,824 05/14/2002 PAT 7,045,140

Foreign Applications

UNITED KINGDOM 0111872.8 05/15/2001

If Required, Foreign Filing License Granted: 02/17/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/275,780**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

THERAPEUTIC DELIVERY OF CARBON MONOXIDE

Preliminary Class

424

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

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

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

NOT GRANTED

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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/275,810	01/30/2006	Scott Brown	12587-0205001	2169

26212 7590 04/19/2011

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

EXAMINER	
RINES, ROBERT D	
ART UNIT	**PAPER NUMBER**
3623	

NOTIFICATION DATE	DELIVERY MODE
04/19/2011	ELECTRONIC

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

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

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

PATDOCTC@fr.com

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

In re Application of:
Brown et al.
Application No. 11/275,810
Filed: January 30, 2006
For: ENTERPRISE ECONOMIC MODELING

DECISION ON PETITION FILED UNDER 37 CFR 1.181

This is a decision on applicants' petition under 37 CFR 1.181 filed November 15, 2010 requesting withdrawal of the finality of the Office action mailed October 15, 2010.

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

A review of the file record indicates that a non-final Office action was mailed on June 24, 2010. Claims 17-23 and 29-49 were rejected under 35 USC 103(a) as being unpatentable over Smith et al. (PG Pub. No. 2006/0212377) in view of Eder (PG Pub. No. 2001/0041996). In a response filed July 28, 2010, applicants argued that Smith does not qualify as prior art based on the fact that the filing date of the Smith reference is after the effective filing date of the instant application and asserted that the Smith reference only qualifies as prior art under 35 USC 102(e) to the extent that it is fully supported by the earlier filing date of the provisional application 60/662,227. Applicants further argued that the provisional application does not fully support the claimed invention. In the final Office action mailed October 15, 2010, the examiner directed applicants' attention to "the Smith et al. provisional Application pages 18-23" and noted that "Smith et al. provide examples of various option pricing models including interface screens (i.e., Administrator Dashboard) which include the model selection and option pricing features of paragraph [0049] of Smith 2006/0232377 [sic]."

Petitioner argues that "the examiner has cited ¶ [0049] of Smith, corresponding to FIG. 4, against claims 17 to 20, 31, and 33;" however, "FIG. 4 of Smith, which depicts an "Administrator's Dashboard," as well as its accompanying description, is absent from the '227 provisional application. As such...Smith is not fully supported by the '227 provisional application, and is entitled to the *later* filing date of Smith, and not the *earlier* filing date of the '227 provisional application." Thus, Smith does not qualify as prior art.

Petitioner's arguments are persuasive. There is no support for FIG. 4 and paragraph [0049] of the Smith reference in "Appendix 1" of the '227 provisional application, especially pages 18-23 relied upon by the examiner; nor is there any support in any of

the other pages of "Appendix 1". Accordingly, Smith is not entitled to the earlier filing date of the '227 provisional application. Therefore, Smith does not qualify as prior art since the filing date of the Smith reference is after the effective filing date of the instant application.

However, petitioner's request for withdrawal of the finality of the October 15, 2010 is dismissed as moot since the finality of the last Office action was effectively withdrawn with the entry of the Request for Continued Examination (RCE) filed on March 15, 2011, see MPEP 706.07(h). Accordingly, the application will be returned to the examiner's docket to await examination of the RCE.

Any inquiries regarding this decision should be directed to Teri P. Luu, Quality Assurance Specialist, at (571) 272-7045

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

WC/tl: 04/15/11

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TILLMAN WRIGHT, PLLC
PO BOX 49309
CHARLOTTE, NC 28277-0076

MAILED

AUG 30 2010

OFFICE OF PETITIONS

In re Application of
Shannon G. PARSONS
Application No: 11/275,886
Filed: February 1, 2006
Attorney Docket No: **1007.007**

: 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 August 30, 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 27, cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 3632 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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

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

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ALEXANDRIA, VA 22313-1450
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Daniel P. Burke, Esq.
Daniel P. Burke & Associates, PLLC
240 Townsend Square
Oyster Bay NY 11771

MAILED

NOV 26 2010

OFFICE OF PETITIONS

In re Application of :
Honda et al. :
Application No. 11/275,950 : DECISION ON PETITION
Filed: 02/06/2006 :
Attorney Docket No. 1959-18 :

This is a decision on the petition under 37 CFR 1.181, filed March 24, 2010 (certificate of mailing dated March 22, 2010), to withdraw the holding of abandonment for the above-identified application.

On September 3, 2009, applicants filed a petition to revive under 37 CFR 1.137(b) and a reply in the form of a notice of appeal. On October 23, 2009, the Office mailed a decision granting the petition under 37 CFR 1.137(b) and setting a two-month extendable period from the mailing date of the decision to submit an appeal brief. Nevertheless, on February 18, 2010, the Office mailed a Notice of Abandonment.

In the present petition, applicants asserted that the application was not abandoned and requested that the Office withdraw the holding of abandonment. Specifically, applicants stated that the final due date for filing a proper reply with a request for an extension of time for response within the fifth month is May 23, 2010. Furthermore, applicants indicated that they were submitting a Request for Continued Examination (RCE), accompanied by a request for an extension of time for response within the third month, in lieu of an appeal brief.

Upon a review of the record, applicants' assertion is correct. As stated in the decision of October 23, 2009, applicants were given a two-month extendable period from the mailing date of the decision to submit an appeal brief or other acceptable reply. Accordingly, applicants could extend this period for response up to five months under 37 CFR 1.136(a) (i.e. on or before May 23, 2010).

In view of the above, the petition to withdraw the holding of abandonment is **granted**. The Office has concluded that the Notice of Abandonment was mailed in error and hereby restores the application to pending status.

This application is being referred to Technology Center AU 2821 for processing of the RCE and for appropriate action by the examiner on the submission filed in accordance with 37 CFR 1.114.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3211. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

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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P.O. Box 1450
Alexandria, VA 22313-1450
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Decision Date : April 6, 2012

In re Application of :

Thomas Muller

DECISION ON PETITION
UNDER CFR 1.313(c)(2)

Application No : 11275964

Filed : 07-Feb-2006

Attorney Docket No : 006918.00024

This is an electronic decision on the petition under 37 CFR 1.313(c)(2), filed April 6, 2012 , to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

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

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

This application file is being referred to Technology Center AU 2431 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	11275964
Filing Date	07-Feb-2006
First Named Inventor	Thomas Muller
Art Unit	2431
Examiner Name	SYED ZIA
Attorney Docket Number	006918.00024
Title	SECURITY ARCHITECTURE

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	/H. Wayne Porter/
Name	Harry Wayne Porter
Registration Number	42084

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FORD GLOBAL TECHNOLOGIES, LLC
FAIRLANE PLAZA SOUTH, SUITE 800
330 TOWN CENTER DRIVE
DEARBORN, MI 48126

Mail Date: 08/04/2010

Applicant	: Nanxin Wang	: DECISION ON REQUEST FOR
Patent Number	: 7647210	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/276,234	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/20/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **286** 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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FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

MAILED

APR 10 2012

OFFICE OF PETITIONS

In re Application	:	
SUDA et al.	:	ON PETITION
Application No. 11/276,263	:	
Filed: February 21, 2006	:	
Attorney Docket No. 053466-0413	:	

This is in response to the COMMUNICATION REGARDING PATENT TERM ADJUSTMENT filed March 21, 2012, requesting that the Office verify the calculation of Patent Term Adjustment.

On December 28, 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 as of the mailing of the Notice of Allowance was 73 days.

On March 21, 2011, petitioners filed the COMMUNICATION REGARDING PATENT TERM ADJUSTMENT, accompanied by the issue fee and publication fee. Petitioners state that the 73 days of Patent Term Adjustment as indicated on the Notice of Allowance disagree with petitioners' calculation of Patent Term Adjustment of 0 days. Petitioners request that the Office verify the accuracy of the initial Determination of Patent Term Adjustment.

The USPTO clarified its treatment of letters submitted by applicants and patentees in which they state that the patent term adjustment determination indicated on a notice of allowance, issue notification, or patent, is greater than what the applicants or patentees believe is appropriate as follows.

> The USPTO will place these letters in the file of the application or patent without further review. The USPTO will no longer review these letters or issue certificates

> of correction on the basis of a review of these letters. If the applicant or patentee wants the USPTO to reconsider its patent term adjustment determination, the applicant or patentee must use the procedures set forth in 37 CFR 1.705 for requesting reconsideration of a patent term adjustment determination. A patentee may also file a terminal disclaimer disclaiming any period considered in excess of the appropriate patent term adjustment. However, the USPTO does not require an applicant or patentee to file either a request for reconsideration under 37 CFR 1.705 or a terminal disclaimer when the patent term adjustment indicated on a notice of allowance, issue notification, or patent is greater than what the applicant or patentee believes is appropriate.

Treatment of Letters Stating That the USPTO's Patent Term Adjustment Determination Is Greater Than What the Applicant or Patentee Believes Is Appropriate, 75 Fed. Reg. 42080 (July 20, 2010).

In this instance, petitioners requests that the Office verify the calculation of Patent Term Adjustment; however, they did not submit the requisite fee set forth in 37 CFR 1.18(e) or a statement of the facts involved. If petitioners want the Office to consider this matter and issue a decision, petitioners must use the procedures set forth in 37 CFR 1.705 for requesting reconsideration of a patent term adjustment determination. The Office notes that payment of the fee under 37 CFR 1.18(e) is a prerequisite to consideration of a request for reconsideration of patent term adjustment.

The request is **DISMISSED**.

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

/Christina Tartera Donnell/

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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STE 648
SHELTON CT 06484

MAILED
JAN 19 2011
OFFICE OF PETITIONS

In re Application of :
David R. Shenk :
Application No. 11/276,265 : DECISION ON PETITION
Filed: February 21, 2006 :
Attorney Docket No. 062995-0102 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 2, 2010, to revive the above-identified application.

The petition is **DISMISSED**.

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

This application became abandoned for failure to timely pay the issue fee on or before April 14, 2010, as required by the Notice of Allowance and Fee(s) Due mailed January 14, 2010. Accordingly, the date of abandonment of this application is April 15, 2010. A Notice of Abandonment was mailed May 3, 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(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item (1) of the above items.

With regards to item (1), petitioner has failed to pay the issue fee of $1,510.00 and the publication fee of $300.00. *See* MPEP 711.03(c)(III)(A)(1). Petitioner has instead filed a Request for Continued Examination (RCE) in response to the Notice of Allowance.

Further, 35 U.S.C. 41(a)(7) and 151 each require payment of the issue fee as a condition of reviving an application abandoned for failure to pay the issue fee. Therefore, the filing of an RCE request without payment of the issue fee or any outstanding balance thereof is not an acceptable reply in an application abandoned for failure to pay the issue fee or any portion thereof.

Petitioner is advised that, once submitted, the issue fee 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.

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

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

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

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-7751.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: William Scott Andes
One Neumann Way, MDF16
Cincinnati, Ohio 45215

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAILED
FEB 24 2011
OFFICE OF PETITIONS

In re Application of :
David R. Shenk :
Application No. 11/276,265 : DECISION ON PETITION
Filed: February 21, 2006 :
Attorney Docket No. 062995-0102 :

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

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue fee on or before April 14, 2010, as required by the Notice of Allowance and Fee(s) Due mailed January 14, 2010. Accordingly, the date of abandonment of this application is April 15, 2010. A Notice of Abandonment was mailed May 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 $1,510.00 issue fee and the $300.00 publication fee and a Request for Continued Examination (RCE) and fee of $810.00 (previously paid on December 2, 2010), (2) the petition fee of $1,620.00 (previously paid on December 2, 2010); and (3) a proper statement of unintentional delay.

Further, petitioner has filed a Request for Continued Examination (RCE) in response to the Notice of Allowance.

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.

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

This matter is being referred to Technology Center AU 3753 for processing of the Request for Continued Examination under 37 CFR 1.114 and the Information Disclosure Statement (IDS) filed December 2, 2010.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: William Scott Andes
One Neumann Way, MDF16
Cincinnati, Ohio 45215

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Larson & Anderson, LLC
P.O. BOX 4928
DILLON CO 80435

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APR 18 2011

OFFICE OF PETITIONS

In re Application of	:	
Gleave et al.	:	
Application No. 11/276300	:	ON PETITION FOR
Filing or 371(c) Date: 02/23/2006	:	CORRECTION TO
Attorney Docket Number:	:	PATENT TERM ADJUSTMENT
UBC.P-030-DV	:	

This is a decision on the "PETITION FOR CORRECTION TO PATENT TERM ADJUSTMENT (37 CFR §1.705)," filed April 1, 2011. Applicants request recalculation of the patent term adjustment calculation to 87 days, not 119 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction based upon an assertion that the Office erred in failing to calculate a delay of 32 days. The petition is properly treated under 37 CFR 1.705(b).

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 failing to calculate a delay of 32 days is **DISMISSED**.

On March 14, 2011, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 119 days.

On April 1, 2011, applicants timely submitted the instant application for patent term adjustment[1]. Applicants request that the Determination of Patent Term Adjustment be corrected from 119 days, as indicated on the Determination of PTA mailed March 14, 2011, to an adjustment of 87 days. Applicants aver that the Office did not calculate an extension of time filed November 22, 2010, filed with a Notice of Appeal in response to a final office action, mailed July 21, 2010. As such, applicants aver that the Office erred in failing to calculate a delay of 32 days.

As to the assertion that the Office erred in failing to calculate a reduction of 32 days in connection with the filing of a Notice of Appeal and extension of time in response to a final Office action, on November 22, 2010, Office records confirm that a final Office action was mailed on July 21, 2010. Applicants filed an Amendment in response to the final Office action on September 20, 2010. In reply, the Office mailed an Advisory Action informing Applicants

[1] PALM records show that the Issue Fee payment has not been received as of the filing of the present petition.

that the Amendment would not be entered. Applicants thereafter filed a Notice of Appeal and extension of time, and a Pre-Appeal Brief Request for Review on November 22, 2010. In a Notice of Panel Decision from Pre-Appeal Brief Review, mailed January 6, 2011, the Office withdrew the rejection and mailed a Notice of Allowance on March 14, 2011.

With respect to the Notice of Appeal and extension of time filed November 22, 2010, the calculations of record are correct. In view of the Panel Decision, the period of reduction under 37 CFR 1.704(b) is calculated based upon the Amendment filed September 20, 2010, which is treated as a sufficient reply to the Office action mailed July 21, 2010.

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

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, including any request as it relates to the Office's failure to issue the patent within 3 years of the filing date, 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. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this matter should be directed to Attorney Derek Woods at (571) 272-3232.

Anthony Knight
Director
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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400 EAST VAN BUREN
ONE ARIZONA CENTER
PHOENIX, AZ 85004-2202

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JAN 26 2012
OFFICE OF PETITIONS

In re Patent No. 7,195,188
Issue Date: March 27, 2007
Application No. 11/276,431
Filed: February 28, 2006
Attorney Docket No. 51451.0117

ON PETITION

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

The petition is **GRANTED**.

This patent expired on 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 is timely filed under the provisions of 37 CFR 1.378(c).

The petition is not signed by a registered patent attorney or agent of record. However, in accordance with 37 CFR 1.34, the signature of Jonathan S. Miller appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. If Mr. Miller 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 herein; however, all future correspondence regarding this patent will be directed solely to the above-noted correspondence address of record.

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

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. Nonetheless, 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. Receipt is acknowledged of the requisite maintenance fee and surcharge.

In view of the above, the 3 ½ year maintenance fee in this case is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

Petitioner will not receive future correspondence related to maintenance fees for the patent unless a "Fee Address" Indication Form (see PTO/SB/47) and Request for Customer Number (see PTO/SB/125) are submitted.

The file is being forwarded to the Files Repository.

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

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: JONATHAN S. MILLER
BLAKELY, SOKOLOFT, TAYLOR & ZAFMAN
12400 WILSHIRE BLVD., STE. 700
LOS ANGELES, CA 90025

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

3/16/2011

Patent No. :7811430
Inventor(s) :Petyt, Adrian
Issued :10/12/2010
Title :BIOSENSORS AND METHODS OF MAKING
Atty.doc./File No.

Request for Certificates of Correction

Consideration has been given to your request for the issuance of a Certificate of Correction, for the above – identified patent under the provisions of CFR 1.322.

Inspection of the application for the patent reveals claim 12 which is amended to be claim 13 by the examiner line 8 is printed in accordance with the record please show evidence of supporting data or amendment.There needs to be a $100 fee to correct this change. Therefore being no fault on the Patent and Trademark Office, It has no authority to issue a certificate of correction under the provision of 1.322.

In view of the forgoing, your request in this matter, is hereby denied. The remaining errors will be approved.

Future written correspondence concerning this matter should be filed and directed to Decisions & Certificates of Correction Branch.

Henry Randall
Decisions & Certificates
of Correction Branch
(703) 756-1571

BOZICEVIC,FIELD & FRANCIS LLP
1900 UNIVERSITY AVENUE, SUITE 200
EAST PALO ALTO, CALIFORNIA 94303

HR

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OFFICE OF PETITIONS

INTEL/BSTZ
BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE CA 94085-4040

In re Application of :
Bar-Sadeh et al :
Application No. 11/276,596 : DECISION ON PETITION
Filed: March 7, 2006 :
Attorney Docket No. 042390.PL3851D :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 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/election; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Restriction Requirement mailed July 23, 2009, 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 2813 for appropriate action by the Examiner in the normal course of business on the reply received May 21, 2010.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11/10/11

TO SPE OF : ART UNIT: 3685

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/276,800 Patent No. 7,584,149

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

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: _____

_____

_____

_____

SPE

3685
Art Unit

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DEC 21 2010

OFFICE OF PETITIONS

In re Application of :

Holmstrom, et al. :

Application No. 11/276,838 : ON PETITION

Filed: March 16, 2006 :

Attorney Docket No. **P20677-US2**

This is in response to the communications filed March 11, 2010, of which portions are now being treated as a petition to withdraw the holding of abandonment under 37 CFR 1.181(a).

The petition is **dismissed**.

This application was held abandoned October 18, 2009, after no reply was received to the non-final Office action mailed July 17, 2009. 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 18, 2009. A Notice of Abandonment was mailed February 1, 2010. The instant petition was filed on March 11, 2010. Petitioner maintains that the Office action mailed July 17, 2009, was never received.

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

> To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner **>describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.
>
> Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.
>
> A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of

> the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.<

Petitioner has not made the evidentiary showing specified above. The petition is dismissed accordingly. The renewed petition must be accompanied by a copy of petitioner's master docket record, or other adequate evidence to support petitioner's contention that the non-final Office action was not received. If a master docket does not exist, the renewed petition should indicate such. Petitioner is required to make this showing notwithstanding whether the Office action was returned to the USPTO.

Alternatively, 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.

It is also noted that the petitioner included the petition as part of an amendment. The renewed petition should be contained on a paper separate from any other response or communication that is filed.

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

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OFFICE OF PETITIONS

In re Application of :

Holmstrom, et al. :

Application No. 11/276,838 : ON PETITION

Filed: March 16, 2006 :

Attorney Docket No. **P20677-US2**

This is in response to the renewed petition to withdraw the holding of abandonment under 37 CFR 1.181(a), filed January 6, 2011.

The renewed petition is **dismissed**.

This application was held abandoned October 18, 2009, after no reply was received to the non-final Office action mailed July 17, 2009. 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 18, 2009. A Notice of Abandonment was mailed February 1, 2010. A petition to withdraw the holding of abandonment was filed on March 11, 2010, and dismissed by a decision mailed December 21, 2010. The instant renewed petition was filed January 6, 2011.

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

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

record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.

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

Petitioner has again not met the evidentiary showing specified above in that petitioner has not provide a copy of the master docket for the firm showing all replies docketed for a date three months from the mail date of the nonreceived Office action Petitioner has only provided a docket record for the subject application. This, in and of itself, does not satisfy the evidentiary standard set forth above. Petitioner is required to make this showing, notwithstanding the fact the non-final Office action was returned to the Office on July 17, 2009. While petitioner has described petitioner's docketing system, petitioner has not expressly indicated that a master docket showing all replies for all applications docketed for a date three months from the mail date of the non-final Office action does not exists. If, in fact, a master docket of the kind described by MPEP 711.03(c) above does not exist, petitioner is required to so state this in the renewed petition. If petitioner is asserting that the master docket does not exists, petitioner is not required to submit the snapshot of the docket record for the instant application again, nor is petitioner required to submit the statements establishing that the docketing system is sufficiently reliable. Petitioner need only indicate that records from petitioner's docketing system cannot be generated in such a way so as to label it a "master docket" of all the replies docketed for the firm.

Alternatively, 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

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MAILED
MAR 28 2011
OFFICE OF PETITIONS

In re Application of :

Holmstrom, et al. :

Application No. 11/276,838 : ON PETITION

Filed: March 16, 2006 :

Attorney Docket No. **P20677-US2**

This is in response to the second renewed petition to withdraw the holding of abandonment under 37 CFR 1.181(a), filed March 9, 2011.

The renewed petition is **granted**.

This application was held abandoned October 18, 2009, after no reply was received to the non-final Office action mailed July 17, 2009. 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 18, 2009. A Notice of Abandonment was mailed February 1, 2010. A petition to withdraw the holding of abandonment was filed on March 11, 2010, and dismissed by a decision mailed December 21, 2010. A renewed petition was filed January 6, 2011, and dismissed by a decision mailed March 9, 2011.

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

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

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

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

The application file is being forwarded to Technology Center, GAU 2617 for further processing that will include remailing the non-final Office action and resetting of the period for reply.

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

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : **11/09/11**

TO SPE OF : ART UNIT: 3734 **Attn: JACKSON GARY (SPE)**

SUBJECT : Request for Certificate of Correction for Appl. No.: **11/276877** Patent No.: **7955380**

CofC mailroom date: **11/04/2011**

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: **Please check Claims 7, 19, 22, 25 & 29 Should these amended claims be amended again 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: Minor corrections are indicated that were also included.

/Gary Jackson/ **SPE** — 3734 **Art Unit**

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

MAILED

AUG 02 2010

OFFICE OF PETITIONS

In re Application of :
KIM, Sang Pil et al. :
Application No. 11/276,881 : NOTICE UNDER 37 CFR. 1.28(c)
Filed: July 09, 2009 :
Attorney Docket No. **114260-019** :

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

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

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

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

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

Thurman K. Page
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON DC 20037

MAILED

APR 25 2011

OFFICE OF PETITIONS

In re Application of	:	
Joseph Demarteau	:	DECISION ON PETITION
Application No. 11/276,891	:	UNDER 37 CFR 1.313(c)(3)
Filed: March 17, 2006	:	
Attorney Docket No. Q93838	:	

This is a decision on the petition under 37 CFR 1.313(c)(3), filed April 21, 2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

Petitioner requests that the above-identified application be withdrawn from issue for express abandonment. *See* 37 CFR 1.313(c)(3).

The application is hereby withdrawn from issue, and the abandonment is hereby recognized.

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

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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PATTERSON & SHERIDAN, LLP / INTERCAT EQUIPMENT
3040 POST OAK BOULEVARD
SUITE 1500
HOUSTON TX 77056-6582

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JUN 03 2011

OFFICE OF PETITIONS

In re Patent No. 7,438,863	:	
Issued: October 21, 2008	:	
Application No. 11/276,899	:	NOTICE
Filed: March 17, 2006	:	
Attorney Docket No. CAT/008C1	:	

This is in response to the paper filed March 31, 2011 under 37 CFR 1.28(g)(2) requesting that status as a Small Entity be removed.

In accordance with the March 31, 2011 request, status as a Small Entity has been removed.

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.

Additionally, 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.

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

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Patterson & Sheridan, LLP
595 Shrewsbury Avenue
Suite 100
Shrewsbury, NJ 07702

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AUG 13 2010

OFFICE OF PETITIONS

FOX ROTHSCHILD LLP
997 LENOX DRIVE
BUILDING 3
LAWRENCEVILLE, NJ 08648

In re Application of :
Shant Hovnanian et al :
Application No. 11/276,920 : DECISION ON PETITION
Filed: March 17, 2006 : TO WITHDRAW
Attorney Docket No. 5261-106US//P29687-A USA : 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 29, 2010.

The request is **APPROVED**.

The request was signed by Richard Woodbridge on behalf of the practitioners of record associated with Customer Number 20802.

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

All future correspondence will be directed to assignee Speedus Corp. at the first address (assignee's address of record) 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: Speedus Corp.
9 Desbrosses Street, Suite 402
New York, NY 10013

cc: Speedus Corp.
1 Dag Hammarskjold Blvd.
Freehold, NJ 07728

cc: Richard Woodbridge
Fox Rothschild LLP
P.O. Box 5231
Princeton, NJ 08543

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/276,920	03/17/2006	Shant Hovnanian	5261-106US//P29687-A USA

CONFIRMATION NO. 3981

20802
FOX ROTHSCHILD LLP
997 Lenox Drive
Building 3
Lawrenceville, NJ 08648

POWER OF ATTORNEY NOTICE

Date Mailed: 08/13/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/29/2010.

- 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.

/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
11/276,920	03/17/2006	Shant Hovnanian	5261-106US//P29687-A USA

CONFIRMATION NO. 3981

Speedus Corp.
9 Desbrosses Street, Suite 402
New York, NY 10013

POA ACCEPTANCE LETTER

OC000000043023313

Date Mailed: 08/13/2010

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/29/2010.

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

/idingle/

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

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Speedus Corp.
9 Desbrosses Street, Suite 402
New York NY 10013

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NOV 19 2010

OFFICE OF PETITIONS

In re Application of :
Hovnanian, et al. :
Application No. 11/276,920 : ON PETITION
Filed: March 17, 2006 :
Attorney Docket No. 5261-106US//P29687-A :
USA

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

The petition is GRANTED.

The application became abandoned April 14, 2010 for failure to timely submit a proper reply to the final Office action mailed January 13, 2010. The final Office action set a three month shortened statutory period of time for reply. No petition for extension of time pursuant to 37 CFR 1.136(a) was filed. Notice of Abandonment was mailed August 5, 2010.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by: (1) the required reply to the outstanding Office action or notice, unless previously filed; (2) the petition fee as set forth in 37 C.F.R. § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee set forth in 37 C.F.R. § 1.20(d)) required pursuant to 37 C.F.R. § 1.137(c).

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

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

regarding this application file will be directed solely to the above-noted correspondence address of record.

This application is being referred to Technology Center AU 3685 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

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

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

CC: Shahnam Sharareh, PharmD
FOX ROTHSCHILD LLP
Princeton Pike Corporate Center
997 Lenox Drive, Building 3
Lawrenceville, NJ 08648-2311

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DAVID A. GUERRA
INTERNATIONAL PATENT GROUP, LLC
SUITE 700
1816 CROWCHILD TRAIL N.W.
CALGARY AB T2M 3Y7 CA CANADA

MAILED
DEC 06 2010
OFFICE OF PETITIONS

In re Application of	:	
Phillip B. Cavagna	:	
Application No. 11/276,986	:	DECISION ON PETITION
Filed: March 20, 2006	:	
Attorney Docket No. AP088-06	:	

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

The petition is **GRANTED**.

This application became abandoned for failure to timely submit Corrected Drawings on or before September 21, 2010, as required by the Notice of Allowance and Fee(s) Due and the Notice of Allowability, mailed June 21, 2010. Accordingly, the date of abandonment of this application is September 22, 2010. A Notice of Abandonment was mailed October 6, 2010.

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

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

This application is being referred to Publishing Division for processing into a patent and review of the Corrected Drawings submitted with the instant petition.

Joan Olszewski
Petitions Examiner
Office of Petitions

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SNR DENTON US LLP
P.O. BOX 061080
CHICAGO IL 60606-1080

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AUG 31 2011
OFFICE OF PETITIONS

In re Application of :
Kazuto Kimura, et al. :
Application No. 11/277,055 : DECISION GRANTING PETITION
Filed: March 21, 2006 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 09792909-6624 :

This is a decision on the renewed petition under 37 CFR 1.313(c)(2), filed August 30, 2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on August 12, 2011 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2629 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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

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

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

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

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

Attorney Docket Number: TTEC/0506US	
Application Number: 11/277,089	Filing Date (or 371(b) or (f) Date): March 21, 2006
Patent Number: 7,656,549	Issue Date: February 2, 2010
First Named Inventor: Souichi IZUMISAWA	
Title: IMAGE FORMING APPARATUS	

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 September 1, 2010
Name (Print/Typed) Frederick D. Kim	Registration Number 51,530

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.

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PATTERSON & SHERIDAN, L.L.P.
3040 POST OAK BOULEVARD
SUITE 1500
HOUSTON, TX 77056

Mail Date: 09/17/2010

Applicant	: Souichi Izumisawa	: DECISION ON REQUEST FOR
Patent Number	: 7656549	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/277,089	: OF WYETH
Filed	: 03/21/2006	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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PATTERSON & SHERIDAN, L.L.P.
3040 POST OAK BOULEVARD
SUITE 1500
HOUSTON, TX 77056

MAILED

JAN 10 2011

OFFICE OF PETITIONS

In re Patent of Izumisawa :
Patent No. 7,656,549 :
Issue Date: February 2, 2010 : DECISION ON PETITION
Application No. 11/277,089 : UNDER 37 C.F.R. § 1.183
Filing Date: March 21, 2006 :
Attorney Docket No. TTEC/0506 :

This is a decision on the petition filed September 1, 2010, which is being treated as a petition under 37 C.F.R. § 1.183.

The petition is **dismissed**.

The instant application matured into U.S. Patent No. 7,656,549, with a revised patent term adjustment of 850 days on February 2, 2010.

Pursuant to 37 C.F.R. § 1.705(d), a request for review of the revised patent term adjustment set forth on a patent must be filed within two months of the date a patent issues. A request for reconsideration of the revised patent term adjustment was not filed within two months of the date the patent issued. The petition does not include any explanation for petitioner's failure to file a request for reconsideration under 37 C.F.R. § 1.705(d) within two months of the date the patent issued.

As a result of the decision in *Wyeth v. Kappos*, 591 F.3d 1364, 93 U.S.P.Q. 2d (BNA) 1257 (Fed. Cir. 2010), the Office issued a Federal Register notice that, *inter alia*, announced a limited waiver of the two-month deadline for filing a petition for reconsideration of the patent term adjustment under 37 C.F.R. § 1.705(d). *See Interim Procedure for Patentees to Request a Recalculation of the Patent Term Adjustment to Comply With the Federal Circuit Court Decision in Wyeth v. Kappos Regarding the Overlapping Delay Provision of 35 U.S.C. 154(b)(2)(A)*, 75 Fed. Reg. 5043 (February 1, 2010) ("Notice"). The Notice indicated the USPTO would permit patent owners to request recalculation of a patent's patent term adjustment up to 180 days after the grant of the patent in view of the Federal Circuit Court decision in *Wyeth v. Kappos*, 591 F.3d 1364 (Fed. Cir. 2010).[1]

[1] The Notice stated the Office was *sua sponte* waiving the two-month limit to file a request under 37 C.F.R.

Petitioner seeks to have the Office's waiver of the two-month time limit set forth in 37 C.F.R. § 1.705(d) extended to encompass a request filed 211 days after the issue date of the patent based on an assertion counsel for Petitioner was unaware of the 180-day period set forth above.

When the Office issued the February 1, 2010 Notice, the Office determined the Office would **not** accept **any** requests for PTA recalculation **initially filed** more than 180 days after the grant of the patent in view of the statutory judicial-review provisions of 35 U.S.C. § 154(b)(4), which require any civil action challenging the USPTO's PTA determination be brought within 180 days of the issuance of the patent. The USPTO believes the statutory 180-day period for seeking court review of the USPTO's PTA determinations, particularly in light of the six-year statute of limitations that otherwise is applicable for actions under the Administrative Procedures Act, indicates a congressional intent that PTA issues be resolved shortly after the issuance of a patent. The USPTO does not consider it likely that Congress created a scheme under which the time period to seek initial USPTO review of a PTA determination extends beyond the time period to **seek initial** USPTO review of a PTA determination extends beyond the time period provided for a dissatisfied patentee to seek judicial review of the USPTO's PTA determination. **Thus the USPTO believes that the 180-day period set forth in 35 U.S.C. § 154(b)(4) represents the outer limit for a party to initially file a request for PTA recalculation.**

In view of the prior discussion, the petition under 37 C.F.R. § 1.183 is dismissed and the two-month time period set forth in 37 C.F.R. § 1.705(d) will not be waived.

Receipt of the $400 fee for the petition under 37 C.F.R. § 1.183 is acknowledged.

Telephone inquiries specific to this matter should be directed to Steven Brantley, Senior Petitions Attorney, at (571) 272-3203.

Charles Steven Brantley
Director
Office of Petitions

---

§ 1.705(d) if request is filed within 180 days of the date the patent issued, the patent issued prior to March 2, 2010, and the sole basis for requesting reconsideration of the patent term adjustment is the Office's pre-*Wyeth* interpretation of 35 U.S.C. § 154(b)(2)(A).

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BANNER & WITCOFF, LTD.
Attorneys for client 007052
1100 13th STREET, N.W.
SUITE 1200
WASHINGTON, DC 20005-4051

Mail Date: 09/14/2010

Applicant	: Ralf Otremba	: DECISION ON REQUEST FOR
Patent Number	: 7663212	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/277,105	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/21/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **837** 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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NORTH WEBER & BAUGH, LLP (ORACLE)
2479 E. BAYSHORE ROAD, SUITE 707
PALO ALTO, CA 94303

MAILED

JUN 17 2011

OFFICE OF PETITIONS

In re Application of :
Edwin K. MARGULIES, *et al.* :
Application No. 11/277,125 : DECISION ON PETITION TO
Filed: March 21, 2006 : WITHDRAW FROM RECORD
Attorney Docket No. **ORACL- 05178US1** :

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 **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to **NORTH WEBER & BAUGH, LLP (ORACLE)** has been revoked by the assignee of the patent application on May 16, 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: **FLIESLER MEYER LLP**
650 CALIFORNIA STREET, 14TH FLOOR
SAN FRANCISCO, CA 94108

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : December 1, 2010

TO SPE OF : ART UNIT 2828

SUBJECT : Request for Certificate of Correction for Appl. No.: 11277252 -: 7813387

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
Randolph Square Building
2800 South Randolph Street
Arlington, VA 22206

Magdalene Talley

_____
Certificates of Correction Branch
(571)272-0XXX

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** MINSUN OH HARVEY **Art Unit** 2828
PRIMARY EXAMINER

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CHOATE, HALL & STEWART LLP
TWO INTERNATIONAL PLACE
BOSTON MA 02110

MAILED

DEC 06 2010

OFFICE OF PETITIONS

In re Application of	:	
Bradley J. Pedersen	:	
Application No. 11/277,296	:	DECISION ON PETITION
Filed: March 23, 2006	:	TO WITHDRAW
Attorney Docket No. 2006579-0595 (CTX-157DV1)	:	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 10, 2010.

The request is **NOT APPROVED.**

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

Accordingly, the request to withdraw from record cannot be approved because the request to change the correspondence address is not that of: (1) the first named inventor; or (2) an assignee of the entire interest under 37 C.F.R 3.71. If an assignee has ownership in this application, then a current Statement under 37 CFR 3.73(b) or a copy of the actual assignment must be provided with a renewed request.

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

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

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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Wong, Cabello, Lutch, Rutherford & Brucculeri, LLP
20333 SH 249 6th Floor
Houston, TX 77070

MAILED

JUN 06 2011

OFFICE OF PETITIONS

In re Application of :
Yiping Ding et al. :
Application No. 11/277,307 : DECISION ON PETITION
Filed: March 23, 2006 : TO WITHDRAW
Attorney Docket No. 02-027-US-C (149-0101US-C) : FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 16, 2011.

The request is **moot because a revocation of power of attorney has been filed**.

A review of the file record indicates that the power of attorney to Wong, Cabello, Lutch, Rutherford & Brucculeri, LLP, has been revoked by the assignee of the patent application on May 23, 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 Kimberly Inabinet at 571-272-4618.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Brake, Hughes, Bellermann, LLP
c/o CPA Global
P.O. Box 52050
Minneapolis, MN 55402

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/277,307	03/23/2006	Yiping Ding	149-0101US-C

CONFIRMATION NO. 4598

29855
WONG, CABELLO, LUTSCH, RUTHERFORD & BRUCCULERI, L.L.P.
20333 SH 249 6th Floor
HOUSTON, TX 77070

POWER OF ATTORNEY NOTICE

OC000000047943784

Date Mailed: 06/01/2011

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/23/2011.

- 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).

/mnguyen/

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

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MCGUIREWOODS, LLP
1750 TYSONS BLVD
SUITE 1800
MCLEAN VA 22102

MAILED

MAR 24 2011

OFFICE OF PETITIONS

In re Application of :
Rich Chanick :
Application No. 11/277,311 : DECISION ON PETITION
Filed: March 23, 2006 : TO WITHDRAW
Attorney Docket No. 2048501-5001US : 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 February 16, 2011.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Charles J. Gross on behalf of all attorneys/agents associated with customer number 23345. All attorneys/agents associated with customer number 23345 have been withdrawn.

The correspondence address has been changed and is copied below.

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

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Rich Chanick
1430 East Missouri #275
Phoenix, AZ 85014

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United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/277,311	03/23/2006	Rich Chanick	2048501-5001US

CONFIRMATION NO. 4603

POWER OF ATTORNEY NOTICE

23345
MCGUIREWOODS, LLP
1750 TYSONS BLVD
SUITE 1800
MCLEAN, VA 22102

Date Mailed: 03/21/2011

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/16/2011.

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

/kainabinet/

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

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DEC 06 2010

OFFICE OF PETITIONS

VEDDER PRICE P.C.
222 N. LASALLE STREET
CHICAGO IL 60601

In re Application of	:	
Robert J. Trausch	:	
Application No. 11/277,411	:	DECISION ON PETITION
Filed: March 24, 2006	:	TO WITHDRAW
Attorney Docket No. 39034.07.0001	:	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 12, 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 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 cannot be approved because there is no indication that certifications for acts (2) and (3) have been performed.

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

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- 4618.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

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

MAILED

AUG 05 2010

OFFICE OF PETITIONS

In re Application of :
Xiao-Ming Ni, et al. :
Application No. 11/277,466 : DECISION ON PETITION
Filed: March 24, 2006 :
Attorney Docket No. 006041.00063 :

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 petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before June 8, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed March 8, 2010. Accordingly, the date of abandonment of this application is June 9, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $755 and the publication fee of $300, (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

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

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

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

Terri Johnson
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JAMES D. STEVENS
REISING ETHINGTON P.C.
P.O. BOX
TROY MI 48099

MAILED

SEP 24 2010

OFFICE OF PETITIONS

In re Application of :
Bruce MCCORMICK :
Application No. 11/277,591 : DECISION ON PETITION
Filed: March 27, 2006 :
Attorney Docket No. 1699-3017-1 :

This is a decision on the renewed 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**.

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

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

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

This application is being referred to Technology Center AU 1783 for appropriate action by the Examiner in the normal course of business.

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

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NOV 18 2010

OFFICE OF PETITIONS

Dr. BANGER SHIA
Patent Office of Bang Shia
102 Lindencrest Ct.
Sugar Land TX 77479-5201

In re Application of	:	
Kwan-Jun Choi	:	
Application No. 11/277,649	:	DECISION ON PETITION
Filed: March 28, 2006	:	
Attorney Docket No. **SW-971201**	:	

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 October 2, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on January 3, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $810, 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 Technology Center AU 3636 for appropriate action by the Examiner in the normal course of business.

/JoAnne Burke/
JoAnne Burke
Petitions Examiner
Office of Petitions

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STANZIONE & KIM, LLP
919 18TH STREET, N.W.
SUITE 440
WASHINGTON, DC 20006

Mail Date: 08/02/2010

Applicant	: Tae-kwon Na	: DECISION ON REQUEST FOR
Patent Number	: 7663896	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/277,659	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/28/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **632** 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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GREG GOSHORN, P.C.
9600 ESCARPMENT
SUITE 745-9
AUSTIN TX 78749

MAILED
JUL 15 2011
OFFICE OF PETITIONS

In re Application of :
HARGRAVE, et al :
Application No. 11/277,665 : ON PETITION
Filed: March 28, 2006 :
Attorney Docket No. AUS920050468US1 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 7, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of November 1, 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). An extension of time pursuant to the provisions of 37 CFR 1.136(a) for one (1) month was obtained. Accordingly, the date of abandonment of this application is March 2, 2011. A Notice of Abandonment was mailed May 11, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a 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 statement of unintentional delay have been received.

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

This application is being referred to Technology Center AU 2432 for processing of the RCE and the Request for Suspension of Action in the normal course of business.

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

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NUTTER MCCLENNEN & FISH LLP
SEAPORT WEST
155 SEAPORT BOULEVARD
BOSTON, MA 02210-2604

MAILED
APR 25 2011
OFFICE OF PETITIONS

In re Application of	:	
Erasmo Lopez, et al.	:	
Application No. 11/277,725	:	DECISION GRANTING PETITION
Filed: March 28, 2006	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 3167 US	:	

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on April 4, 2011 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 3775 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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

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

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Paper No.

MIDDLETON REUTLINGER
401 S. 4TH STREET
2500 BROWN & WILLIAMSON TOWER
SUITE 2500
LOUISVILLE KY 40202

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SEP 20 2010

OFFICE OF PETITIONS

In re Application of	:	
Robinson et al.	:	
Application No. 11/278,190	:	ON APPLICATION FOR
Filed: 03/31/2006	:	PATENT TERM ADJUSTMENT
Atty Docket No.	:	
25205	:	

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(b) AND 35 U.S.C. § 154," filed on May 26, 2010. Applicants submit that the correct patent term adjustment to be indicated on the patent should be increased from 414 days to 945 days. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

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

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

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

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

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

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

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

---

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

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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

PTO/SB/131 (01-10)
Approved for use through 02/28/2011. OMB 0651-0020
U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

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

Attorney Docket Number: 091120	Patent Number: 7,650,552
Filing Date (or 371(b) or (f) Date): 03-31-2006	Issue Date: 1-19-2010
First Named Inventor: Fariborz Pourbigharaz	
Title: AN APPARATUS AND METHOD FOR DETECTING AND RECOVERING ERRORS CAUSED BY ELECTROSTATIC DISCHARGE	

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 07-13-2010
Name (Print/Typed) Michael J. DeHaemer	Registration Number 39164

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

☑ *Total of 1 forms are submitted.

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

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

PTO/SB/131 (01-10)
Approved for use through 02/28/2011. OMB 0651-0020
U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

Instruction Sheet for:
REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH**

(Not to be Submitted to the USPTO)

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

This form must be filed within 180 days of the day the patent was granted, with the following exception:

> Patentees who received a decision from the USPTO under the USPTO's pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A) may file a request for reconsideration of that decision if such a request for reconsideration is filed within **two months** of the date of the decision (37 CFR 1.181(f)). If the patentee's sole basis for requesting reconsideration of the decision is the USPTO's pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A), the request for reconsideration need only state that reconsideration is being requested in view of Wyeth (this form may be used for this purpose if it is filed within **two months** of the date of the decision from the USPTO).

Do not use this form if the application has been allowed, but not yet issued as a patent.

1. **For patents issued before March 2, 2010:** A request for reconsideration under 37 CFR 1.705(d) and the fee set forth in 37 CFR 1.18(e) are not required, provided that the patentee's sole basis for requesting recalculation of the PTA in the patent is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A) and this form is filed within 180 days of the day the patent was granted.

2. **For patents issued on or after March 2, 2010 (do not use this form):** Patentees seeking a revised PTA in a patent issued on or after March 2, 2010, must file a request for reconsideration under 37 CFR 1.705(d) that complies with the requirements of 37 CFR 1.705(b)(1) and (b)(2) within two months of the day the patent issued.

For more information, see "Notice Concerning Calculation of the Patent Term Adjustment With Respect to the Overlapping Delay Provision of 35 U.S.C. 154(b)(2)(A)" available on the USPTO Web site at http://www.uspto.gov/patents/law/notices/2010.jsp.

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

Privacy Act Statement

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

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

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

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QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO, CA 92121

Mail Date: 08/12/2010

Applicant	: Fariborz Pourbigharaz	: DECISION ON REQUEST FOR
Patent Number	: 7650552	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/278,199	: OF WYETH
Filed	: 03/31/2006	:
		:

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.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 03/29/11

TO SPE OF : ART UNIT 1781

SUBJECT : Request for Certificate of Correction for Appl. No.: 11278210 Patent No.: 7875303

CofC mailroom date: 03/25/11

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

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

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

KEITH D. HENDRICKS
SUPERVISORY PATENT EXAMINER

1781

SPE Art Unit

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MAR 26 2012

OFFICE OF PETITIONS

Sutherland GE
999 Peachtree Street
Atlanta GA 30309

In re Application of :
Guan, et al. :
Application No. 11/278,212 : ON PETITION
Filed: March 31, 2006 :
Attorney Docket No. 19441-0106 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 6, 2012, to revive the above-identified application.

The petition is GRANTED.

The application became abandoned November 23, 2011 for failure to timely submit a proper reply in response to the final Office action mailed August 22, 2011. This decision precedes Notice of Abandonment.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by: (1) the required reply to the outstanding Office action or notice, unless previously filed; (2) the petition fee as set forth in 37 C.F.R. § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee set forth in 37 C.F.R. § 1.20(d)) required pursuant to 37 C.F.R. § 1.137(c).

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

This application is being referred to Technology Center AU 1725 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

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

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

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

MAILED

OCT 08 2010

OFFICE OF PETITIONS

In re Application of	:	
Timothy Addington	:	DECISION ON PETITION
Application No. 11/278,325	:	TO WITHDRAW
Filed: March 31, 2006	:	FROM RECORD
Attorney Docket No. 43314/308961	:	

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 7, 2010.

The request is **APPROVED**.

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

The request was signed by Karl H. Koster, on behalf of the practitioners of record associated with Customer No 00826.

Customer No 00826 has been withdrawn as from record. 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 outstanding Office actions that require a reply from the applicant.

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

Alicia Kelley
Petitions Examiner
Office of Petitions

cc: TANDBERG TELIVISION INC. C/O ERICSSON INC.,
ATTN THOMAS BETHEA
6300 LEGACY DRIVE, MS EVR 1-C-11
PLANO, TX 75024

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/278,325	03/31/2006	Timothy Addington	43314/308961

CONFIRMATION NO. 6173

826
ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

POWER OF ATTORNEY NOTICE

Date Mailed: 10/06/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

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

- 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.

/atkelley/

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

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NUTTER MCCLENNEN & FISH LLP
SEAPORT WEST
155 SEAPORT BOULEVARD
BOSTON, MA 02210-2604

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AUG 2 0 2010

OFFICE OF PETITIONS

In re Application of
Ronald C. CHATELIER, et *al.*
Application No. 11/278,333
Filed: March 31, 2006
Attorney Docket No. **104978-323**

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 August 17, 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 23, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 1795 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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

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

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155 SEAPORT BOULEVARD
BOSTON, MA 02210-2604

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DEC 15 2010
OFFICE OF PETITIONS

In re Application of :
Ronald C.Chatelier, et al. :
Application No.: 11/278,333 : ON PETITION
Filed: March 31, 2006 :
Attorney Docket No.: 104978-323 :

This is a decision on the petition, filed December 13, 2010, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on November 11, 2010, cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The application is being referred to Technology Center AU 1759 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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BOSTON, MA 02210-2604

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APR 11 2011

OFFICE OF PETITIONS

In re Application of :
Ronald C. CHATELIER, et *al.* :
Application No. 11/278,333 : DECISION GRANTING PETITION
Filed: March 31, 2006 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **104978-323** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed April 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 February 3, 2011 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 1759 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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

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

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	11278333
Filing Date	31-Mar-2006
First Named Inventor	Ronald Chatelier
Art Unit	1759
Examiner Name	JENNIFER DIETERLE
Attorney Docket Number	104978-323
Title	SYSTEMS AND METHODS FOR DISCRIMINATING CONTROL SOLUTION FROM A PHYSIOLOGICAL SAMPLE

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	/Rory P. Pheiffer/
Name	Rory P. Pheiffer
Registration Number	59659

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Decision Date : October 25,2011

In re Application of :

Ronald Chatelier

DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 11278333

Filed : 31-Mar-2006

Attorney Docket No : 104978-323

This is an electronic decision on the petition under 37 CFR 1.313(c)(2), filed October 25,2011 , to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid 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 1759 for processing of the request for continuing examination under 37 CFR 1.114 .

Office of Petitions

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/278,336	03/31/2006	Andrew J. Ouderkirk	62018US002	6195

32692 7590 02/22/2011
3M INNOVATIVE PROPERTIES COMPANY
PO BOX 33427
ST. PAUL, MN 55133-3427

EXAMINER	
KIANNI, KAVEH C	

ART UNIT	PAPER NUMBER
2883	

NOTIFICATION DATE	DELIVERY MODE
02/22/2011	ELECTRONIC

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

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

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

LegalUSDocketing@mmm.com
LegalDocketing@mmm.com

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www.uspto.gov

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

In re Application of:
Ouderkirk et al.
Serial No.: 11/278,336
Filed: March 31, 2006
For: STRUCTURED COMPOSITE OPTICAL FILMS

DECISION *SUA SPONTE*
WITHDRAWING HOLDING
OF ABANDONMENT

This is a decision, *sua sponte*, withdrawing the holding of abandonment of the above-identified application.

A Notice of Appeal was filed on August 3, 2010 starting a period extendible to March 3, 2011. A Notice of Abandonment was mailed on February 7, 2011, prior to the expiration of the extendible period. As such, the Notice of Abandonment was premature.

Although no petition or request to withdraw the holding of abandonment in this application has been filed, the Notice of Abandonment is hereby vacated, the holding of abandonment withdrawn and the application restored to pending status in view of the fact that the extendible period set by the Notice of Appeal has not yet expired. The application is not abandoned in fact.

Any inquiry regarding this decision should be directed to Mark Robinson at 571-272-2319.

Richard Seidel, Group Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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NORTH AMERICA INTELLECTUAL PROPERTY CORPORATION
P.O. BOX 506
MERRIFIELD VA 22116

MAILED
MAR 29 2011
OFFICE OF PETITIONS

In re Application of :
Sam Shiaw-Shiang JIANG :
Application No. 11/278,546 : NOTICE UNDER 37 CFR. 1.28(c)
Patent No. 7,664,059 :
Filed: April 04, 2006 :
Attorney Docket No. ASTP0061USA

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

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

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

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

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

Thurman K. Page
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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IBM CORPORATION
INTELLECTUAL PROPERTY LAW
11501 BURNET ROAD
AUSTIN, TX 78758

MAILED

MAR 29 2011

OFFICE OF PETITIONS

In re Application of :
Michael K. GSCHWIND :
Application No. 11/278,639 : DECISION ON PETITION
Filed: April 4, 2006 : UNDER 37 CFR 1.181
Attorney Docket No. **AUS920050822US1** :

This is a decision on the petition, filed September 29, 2010, which is being treated as a petition under 37 CFR 1.181, requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the Notice of Allowability of June 9, 2010, which set a three (3) month shortened statutory period for reply. Accordingly, a reply was due on or before September 9, 2010.

Petitioner states that a timely reply was mailed on September 8, 2010, which included the following papers: the PTOL-85 Part B – Fee Transmittal and replacement drawing sheet for Figures 1 and 2. Petitioner has submitted a copy of the previously mailed correspondence, which bears a USPTO mailroom date stamp of September 8, 2010, which renders the reply timely filed.

The petition satisfies the requirements of 37 CFR 1.181. Accordingly, the holding of abandonment for failure to timely file a reply to the Notice of Allowability of June 9, 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 received on September 8, 2010.

The address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition.

However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

This application is being referred to Technology Center AU 2193 for appropriate action in the normal course of business on the reply received with petition.

Thurman K. Page
Petitions Examiner
Office of Petitions

cc: **STEPHEN J. WALDER, JR.**
WALDER INTELLECTUAL PROPERTY LAW, PC.
17330 PRESTON ROAD, SUITE 100B
DALLAS, TX 75252

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP
600 GALLERIA PARKWAY, S.E.
STE 1500
ATLANTA GA 30339-5994

MAILED

JAN 21 2011

OFFICE OF PETITIONS

In re Application of:
Jian-Wei Huang et al.
Application No. 11/278,685
Filed: April 5, 2006
Attorney Docket No. 252210-2030:

PETITION DECISION

This is a decision on the renewed petition filed September 13, 2010 under 37 CFR 1.183 which is being treated as a petition under 37 CFR 1.183 to waive the requirements of 37 CFR 1.131.

The petition is **GRANTED**.

The application as-filed identified two inventors, Jian-Wei Huang and Jeff Lin. A declaration under 37 CFR 1.131 was filed on June 5, 2009 but was not signed by one of the co-inventors, Jeff Lin.

Petitioner has filed the instant renewed petition to request waiver of the signature of the unavailable inventor.

Petitioner has provided sufficient evidence in this renewed petitioner that co-inventor Lin refuses to sign the affidavit and thus is unavailable within the meaning of MPEP 409.03(d)(II). The requirements of MPEP 715.04(D) are met.

For the reasons stated, the petition is granted.

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

This application is being forwarded to Technology Center Art Unit 2611.

David Bucci
Petitions Examine
Office of Petitions

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Alexandria, VA 22313-1450
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Paper No.

MARK A. WOLFE
1076 TAMBERWOOD COURT
WOODBURY MN 55125

MAILED
AUG 15 2011
OFFICE OF PETITIONS

In re Patent No. 7,246,310 :
Mark A. Wolfe :
Issue Date: July 17, 2007 :
Application No. 11/278,688 : NOTICE REGARDING DEFICIENCY
Filed: April 5, 2006 :
Atty Docket No. 205 :

This is a notice regarding your letter received July 15, 2011, notifying the Office of loss of entitlement to small entity status and requesting acceptance of a fee deficiency submission as provided for in 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.

The instant request included an itemization and payment of $555 for the deficiency in payment of the first maintenance fee.

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

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

MAILED

MAR 17 2011

OFFICE OF PETITIONS

In re Application of	:	
Mauro FERRARI et al.	:	DECISION GRANTING PETITION
Application No. 11/278,812	:	UNDER 37 CFR 1.137(b)
Filed: April 5, 2006	:	
Atty. Docket No.: UTSH:273US/10716540	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in timely manner to the nonfinal Office action mailed March 5, 2010, which set a shortened statutory period for reply for three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. The application thus became abandoned on June 6, 2010, and a Notice of Abandonment was mailed September 30, 2010.

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

The petition satisfies the conditions for revival pursuant to 37 CFR 1.137(b) by including (1) a reply in the form of a Notice of Appeal and fee, (2) a petition fee of $810, and (3) a statement of unintentional delay. The reply to the nonfinal Office action is accepted as having been unintentionally delayed.

Telephone inquiries relating to this decision should be directed to Robert DeWitty, Petitions Examiner, Office of Petitions (571-272-8427).

This application is being referred to Technology Center Art Unit 1797 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

Ramesh Krishnamurthy

for David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED
OCT 03 2011
OFFICE OF PETITIONS

FULBRIGHT & JAWORSKI L.L.P.
98 SAN JACINTO BOULEVARD
SUITE 1100
AUSTIN TX 78701-4255

In re Application of :
Mauro FERRARI et al. : ON PETITION
Application No. 11/278,812 :
Filed: April 5, 2006 :
Atty. Docket No.: UTSH:273US/10716540 :

This is a decision on the petition under 37 CFR 1.137(b), filed September 1, 2011, to revive the above-identified application.

The petition is **DISMISSED.**

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

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 January 21, 2011, 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 March 22, 2011. *See* MPEP 1215.04.

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

An appropriate reply following abandonment for failure to file an appeal brief can be an appeal brief and appeal brief fee, the filing of a Request for Continued Examination (RCE) and RCE fee, or the filing of a continuing application. *See* MPEP 711.03(c) The instant petition does contain an appropriate reply.

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

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

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

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

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

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
NOV 18 2011
OFFICE OF PETITIONS

FULBRIGHT & JAWORSKI L.L.P.
98 SAN JACINTO BOULEVARD
SUITE 1100
AUSTIN TX 78701-4255

In re Application of	:	
Mauro FERRARI et al.	:	ON PETITION
Application No. 11/278,812	:	
Filed: April 5, 2006	:	
Atty. Docket No.: UTSH:273US/10716540	:	

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

The petition is **GRANTED.**

This application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed January 21, 2011, 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 March 22, 2011. *See* MPEP 1215.04.

The application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving the application, the application is again abandoned in favor of continuing application 13/289,177

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

Robert DeWitty
Petitions Attorney
Office of Petitions

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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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EDWARD S.WRIGHT
1100 ALMA STREET, SUITE 207
MENLO PARK CA 94025

MAILED

MAR 11 2011

OFFICE OF PETITIONS

In re Application of :
Darius Akbar Sadeghi :
Application No. 11/278,865 : DECISION ON PETITION
Filed: April 6, 2006 :
Attorney Docket No. A-75147 :

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

The petition is **GRANTED**.

The 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 a Notice of Appeal, an RCE and an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office action mailed January 13, 2010, is accepted as having been unintentionally delayed.

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

This application is being referred to Technology Center AU 3691 for appropriate action by the Examiner in the normal course of business. The Notice of Appeal was filed December 20, 2010 and the RCE and amendment was filed February 22, 2011.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 09/01/10

TO SPE OF : ART UNIT 2183

SUBJECT : Request for Certificate of Correction for Appl. No.: 11278874 Patent No.: 7707391

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: _____

_____

_____

_____

_____

Eric Coleman For Eddie Chan 2183
ERIC COLEMAN SPE Art Unit
PRIMARY EXAMINER

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 09/01/10

TO SPE OF : ART UNIT 2183

SUBJECT : Request for Certificate of Correction for Appl. No.: 11278874 Patent No.: 7707391

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: _____

_____

_____

_____

_____

Eddie Lee — **SPE**

2183 — **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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MOTOROLA, INC.
1303 EAST ALGONQUIN ROAD
IL01/3RD
SCHAUMBURG IL 60196

MAILED

AUG 3 1 2010

OFFICE OF PETITIONS

In re Application of :
Hoi L. Young et al. :
Application No. 11/278,898 : DECISION ON PETITION
Filed: April 6, 2006 :
Attorney Docket No. **CS27711STARS** :

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

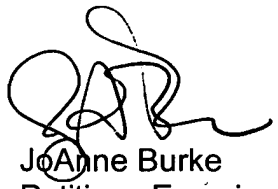
The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of November 20, 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 February 21, 2010.

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

This application is being referred to Technology Center AU 2629 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.



JoAnne Burke
Petitions Examiner
Office of Petitions

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

MAILED

JAN 19 2011

OFFICE OF PETITIONS

In re Application of	:	
Pranav Gambhire	:	
Application No. 11/279,033	:	ON REQUEST FOR
Filed: April 7, 2006	:	RECONSIDERATION OF
Attorney Docket Number: 16292US02	:	PATENT TERM ADJUSTMENT

This is a decision on the petition under 37 CFR 1.705(b), filed December 22, 2010. Applicant believes that he should be accorded an additional PTA of 301 days. Applicant requests this correction on the basis that the Office will take in excess of three years to issue this patent.

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

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

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

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

In view thereof, the correct determination of PTA prior to issuance is **six hundred thirty-six (636) days**.

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

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

Anthony Knight
Director
Office of Petitions

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

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NOV 08 2010

OFFICE OF PETITIONS

Paper No.

LAW OFFICES OF MIKIO ISHIMARU
333 W. EL CAMINO REAL
SUITE 330
SUNNYVALE CA 94087

In re Application of	:	
Yu et al.	:	
Application No. 11/279,131	:	DECISION ON PETITION
Filed: April 10, 2006	:	PURSUANT TO
Attorney Docket No.: 27-136	:	37 C.F.R. § 1.137(B)
Title: INTEGRATED CIRCUIT	:	
PACKAGE SYSTEM USING HEAT	:	
SLUG	:	

This is a decision on the petition pursuant to 37 C.F.R. § 1.137(b), filed September 16, 2010, to revive the above-identified application.

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

The above-identified application became abandoned for failure to submit the issue and publication fees in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed June 15, 2010, which set a shortened statutory period for reply of three months. No extensions of time are permitted for transmitting issue[1] or publication fees.[2] Accordingly, the above-identified application became abandoned on September 16, 2010. A Notice of Abandonment was mailed on September 27, 2010, subsequent to the filing of this petition.

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;

1 See MPEP § 710.02(e)(III).
2 See 37 C.F.R. § 1.211(e).

(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 issue, publication, and petition fees, along with the proper statement of unintentional delay. As such, requirements one through three of Rule 1.137(b) have been met. The fourth requirement of Rule 1.137(b) is not applicable, as a terminal disclaimer is not required.[3]

The Office of Patent Publication will be notified of this decision so that the present application can be processed into a patent.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the revival has been acknowledged by the Office of Patent Publication in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Office of Patent Publication where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status.** Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[4] All other inquiries concerning the status of the application should be directed to the Office of Patent Publication at 571-272-4200.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

---

3 See Rule 1.137(d).
4 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

GRAY ROBINSON
ATTN: STEFAN V. STEIN/ IP DEPT.
201 N. FRANKLIN STREET, SUITE 2200
POST OFFICE BOX 3324
TAMPA, FL 33601-3324

MAILED

OCT 20 2010

OFFICE OF PETITIONS

In re Application of	:	
Newton et al.	:	
Application No. 11/279,156	:	DECISION ON PETITION
Filed: April 10, 2006	:	
Attorney Docket No. 115100.00035	:	

This is a decision on the petition, filed August 16, 2010, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the Final Office action mailed October 27, 2009, which set a three (3) month shortened statutory period for reply. Accordingly, a reply was due on or before April 27, 2010, with a three (3) month extension of time.

Petitioner asserts that a timely reply was filed on April 27, 2010, which included the following papers: a three (3) month extension of time, a Request for Continued Examination including the fee and the submission required by 37 CFR 1.114.

A review of the file record indicates that a three (3) month extension of time, a RCE including the fee and the submission required by 37 CFR 1.114, was received by the Office on April 27, 2010.

In view of the above, the holding of abandonment for failure to timely file a reply to the Office action of October 27, 2009, is hereby withdrawn and the application restored to pending status.

This application is being referred to Technology Center AU 3762 for appropriate action in the normal course of business on the reply filed April 27, 2010.

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

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

UNITED STATES 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 21,2011

In re Application of :

Ronald Newton

Application No : 11279156

Filed : 10-Apr-2006

Attorney Docket No : 55115100.00035

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 21,2011

The request is **APPROVED.**

The request was signed by Woodrow H. Pollack (registration no. 58908) on behalf of all attorneys/agents associated with Customer Number 34802 . All attorneys/agents associated with Cusotmer Number 34802 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	Michael Knox
Name2	Vascular Technologies, Inc.
Address 1	780 CARILLON PARKWAY, SUITE 240
Address 2	
City	CLEARWATER
State	FL
Postal Code	33716
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	11279156
Filing Date	10-Apr-2006
First Named Inventor	Ronald Newton
Art Unit	3762
Examiner Name	SCOTT GETZOW
Attorney Docket Number	55115100.00035
Title	Instrument and Methods for Electrical Current Treatment of Tissues and Methods for Monitoring the Same

◉ Please withdraw me as attorney or agent for the above identified patent application and the practitioners of record associated with Customer Number: 34802

The reason(s) for this request are those described in 37 CFR:

10.40(c)(1)(vi)

Certifications

☒ I/We have given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intend to withdraw from employment

☒ I/We have delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled

☒ I/We have notified the client of any responses that may be due and the time frame within which the client must respond

Change the correspondence address and direct all future correspondence to the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71:

Name	Michael Knox Vascular Technologies, Inc.
Address	780 CARILLON PARKWAY, SUITE 240
City	CLEARWATER
State	FL
Postal Code	33716
Country	US

I am authorized to sign on behalf of myself and all withdrawing practitioners.	
Signature	/Woodrow H Pollack/
Name	Woodrow H. Pollack
Registration Number	58908

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/25/10

TO SPE OF : ART UNIT 3762 Wieland, Robert

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/279184 Patent No.: 7783349

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
Randolph Square – 9D40-A
Palm Location 7580

[signature]
Certificates of Correction Branch
703-756-1571 _____

Thank You For Your Assistance

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

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

Comments: _____

[signature] 3762
SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 7248668
Issue Date: July 24,2007
Application No. 11279280
Filed: April 11,2006
Attorney Docket No. GALK-0010

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

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

The petition is **GRANTED**.

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

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

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7,248,668	2007-07-24	11/279,280	2006-04-11	GALK-0010

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	/David B. Hoffman/	Date (YYYY-MM-DD)	2011-12-06
Name	David B. Hoffman	Registration Number	62835

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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780 NORTH WATER STREET
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BARNES & THORNBURG, LLP
600 1ST SOURCE BANK CENTER
100 NORTH MICHIGAN
SOUTH BEND, IN 46601-1632

MAILED
AUG 19 2011
OFFICE OF PETITIONS

Inventor: Phillip C. Ruehl
Application No. 11/279,321
Filed: April 11, 2006

: DECISION REGARDING
: POWER OF ATTORNEY
:

The instant application has been forwarded to the Office of Patent Legal Administration for a determination of whether ownership by the assignee has been established pursuant to 37 CFR 3.71 and 3.73(b). This is a decision on who may control prosecution (and appoint a power of attorney and set forth the correspondence address to which the United States Patent and Trademark Office ("Office") will send its communications) in the instant application based on the instant file record.

The power of attorney set forth in the power of attorney document filed February 5, 2010, is recognized and the practitioners associated with Customer Number 20572 are recognized as having power of attorney in this application. Correspondence is being directed to the address associated with Customer Number 20572.

The power of attorney previously accorded to the practitioners associated with Customer Number 23642 in the Notice of Acceptance of Power of Attorney mailed July 1, 2011, is withdrawn.

No further revocations of power of attorney, or any other official correspondence, will be permitted by purported assignee AM General, LLC, based on the § 3.71 statements (information) currently of record, or subsequent § 3.73(b) statements referencing the documents recorded at reel 021368 and frame 0832 as evidence of the assignment.

History of Power of Attorney

The instant application was filed on April 11, 2006. On June 14, 2006, applicant filed, *inter alia*, a declaration, executed by and naming Phillip C. Ruehl as the sole inventor,

and a power of attorney document signed by Mr. Ruehl. The power of attorney appointed the practitioners associated with Customer Number 20572 and directed correspondence to the address associated with Customer Number 20572.

On November 5, 2007, a statement under 37 CFR 3.73(b) (hereinafter, "§ 3.73(b) statement") and power of attorney document were filed. The § 3.73(b) statement identified AM General, LLC as the assignee of the entire right title and interest and was signed by Kevin D. O'Rear, Vice President and General Counsel, AM General LLC. Paragraph "B," subpart "1" of the § 3.73(b) statement was completed, however, neither a copy of an assignment was attached nor were reel and frame information provided in accordance with 37 CFR § 3.73(b)(1)(i) or (ii). The power of attorney attempted to appoint the practitioners associated with Customer Number 27187.

Also on November 5, 2007, a document titled, "Supplemental Statement Under 37 CFR § 3.73(b) For Establishing the Right of Assignee to Take Action," signed by counsel, a copy of a petition under 37 CFR 1.47(b) filed in Application No. 11/670,217, and a copy of the decision on petition mailed April 13, 2007 in Application No. 11/670,217, were filed in the instant application.

On September 2, 2008, a § 3.73(b) statement and a power of attorney document were filed, signed by Kevin D. O'Rear, Vice President and General Counsel, AM General, LLC. Paragraph "A" of the § 3.73(b) statement was completed and identified reel 021368, frame 0832, as the location of the documentary evidence in the Office's records. The power of attorney appointed the practitioners associated with Customer Number 27187 and directed correspondence to the address associated with Customer Number 27187.

On September 10, 2008, the Office mailed notices of revocation and acceptance in response to the power of attorney filed September 2, 2008. The power of attorney to practitioners associated with Customer Number 20572 was revoked, and power of attorney to the practitioners associated with Customer Number 27187 was recognized.

On October 23, 2008, a power of attorney signed by inventor Phillip C. Ruehl to the practitioners associated with Customer Number 20572, a document titled, "Inventor's Counter Statement to AM General's Statement Under 37 CFR § 3.73(b) for Establishing the Right to Take Action" and a declaration by Phillip C. Ruehl were filed.

On October 30, 2008, the Office mailed notices of revocation and acceptance in response to the power of attorney filed October 23, 2008. The power of attorney to the practitioners associated with Customer Number 27187 was revoked, and power of attorney to the practitioners associated with Customer Number 20572 was recognized.

On April 29, 2009, a power of attorney signed by Daniel J. Dell'Orto, Senior Vice President and General Counsel, AM General LLC, was filed. The power of attorney appointed the practitioners associated with Customer Number 23642 and directed correspondence to the address associated with Customer Number 23642. The power was

accompanied by a document titled, "AM General's Response to Inventor's Counter-Statement to AM General's Statement Under 37 CFR § 3.73(b) for Establishing the Right to Take Action." The power of attorney was not accompanied by a § 3.73(b) Statement.

On August 31, 2009, the Office mailed notices of revocation and acceptance in response to the power of attorney filed April 29, 2009. The power of attorney to the practitioners associated with Customer Number 20572 was revoked, and power of attorney to the practitioners associated with Customer Number 23642 was recognized.

On February 5, 2010, a power of attorney signed by inventor Phillip C. Ruehl to the practitioners associated with Customer Number 20572, a document titled, "Inventor's Response to AM General's Response to Inventor's Counter-Statement to AM General's Statement Under 37 CFR § 3.73(b) for Establishing the Right to Take Action," and a declaration signed by Mr. Ruehl, were filed. Also on February 5, 2010, a Request for Continued Examination (RCE), request for reconsideration and a "Declaration of Phillip C. Ruehl in Support of Patentability" were filed. The RCE and request for reconsideration were signed by Jennifer Racine, one of the practitioners associated with Customer Number 20572 and appointed by the inventor in the powers of attorney filed June 14, 2006, October 23, 2008, and February 5, 2010.

On March 2, 2010, a non-final Office action was mailed.

On September 2, 2010, a response to the Office action was filed along with a three-month extension of time and an information disclosure statement (IDS). The extension of time fee was paid at the small entity fee amount, $555. The thirteen-page responsive amendment and IDS were signed by Jennifer Racine.

Also on September 2, 2010, a 7-page response to Office action was filed along with a three-month extension of time and an IDS. The extension of time fee was paid at the non-small fee amount, $1110. The amendment and IDS were signed by Gerard Gallagher, one of the practitioners associated with Customer Number 23642 and appointed by purported assignee AM General, LLC in the power of attorney document filed April 29, 2009.

On November 23, 2010, a non-final Office action was mailed that was responsive to the claims as presented in the amendment signed by Jennifer Racine, one of the practitioners associated with Customer Number 20572 and appointed by the inventor in the powers of attorney filed June 14, 2006, October 23, 2008, and February 5, 2010

On November 24, 2010, the Office mailed notices of revocation and acceptance in response to the power of attorney filed February 5, 2010. The power of attorney to the practitioners associated with Customer Number 23642 was revoked, and power of attorney to practitioners associated with Customer Number 20572 was recognized.

On February 9, 2011, the Office restarted the period for reply to the non-final Office action mailed November 23, 2010, and a copy was mailed to the correspondence address of record (i.e., the address associated with Customer Number 20572).

On May 9, 2011, a 13-page response to Office action was filed. The response was signed by Jennifer Racine on behalf of the inventor.

On May 20, 2011, a 10-page response to Office action was filed. The response was signed by Gerard Gallagher, one of the practitioners associated with Customer Number 23642 and appointed by purported assignee AM General LLC in the power of attorney document filed April 29, 2009. The response was accompanied by a three-month extension of time, the non-small entity extension of time fee ($1110), a copy of the decision on petition mailed April 13, 2007 in Application No. 11/670,217, a copy of the § 3.73(b) statement filed in the instant application on September 2, 2008, and a power of attorney document signed by Kevin D. O'Rear. The power of attorney appointed the practitioners associated with Customer Number 27187 and directed correspondence to the address associated with Customer Number 27187.

On May 27, 2011, the Office mailed notices of revocation and acceptance in response to the power of attorney filed February 5, 2010. The power of attorney to the practitioners associated with Customer Number 20572 was revoked, and power of attorney to the practitioners associated with Customer Number 27187 was recognized.

On June 24, 2011, a § 3.73(b) statement and power of attorney document were filed. The § 3.73(b) statement was signed by Gerard Gallagher on behalf of AM General LLC and identified reel 021368, frame 0832, as the location of the documentary evidence in the Office's assignment records. The power of attorney was a copy of the power filed April 29, 2009 and references Customer Number 23642.

On July 1, 2011, the Office mailed notices of revocation and acceptance in response to the power of attorney filed February 5, 2010. The power of attorney to the practitioners associated with Customer Number 27187 was revoked, and power of attorney to the practitioners associated with Customer Number 23642 was recognized.

Alleged Assignee AM General LLC

AM General LLC has attempted to give power of attorney on the following occasions, based on it being the assignee:
November 5, 2007 – the § 3.73(b) statement was defective on its face in that neither a copy of the documentary evidence, nor a reel and frame where such evidence could be viewed in the Office's assignment records, was provided.
September 2, 2008 – the § 3.73(b) statement referenced reel 021368 and frame 0832 for the assignment.
April 29, 2009 – a § 3.73(b) statement was not supplied.
May 20, 2011 – a copy of the September 2, 2008 § 3.73(b) statement was supplied.

June 24, 2011 – a new § 3.73(b) statement was submitted again that again referenced reel 021368 and frame 0832 for the assignment.

Decision on Assignment Document Recorded at Reel/Frame 021368/0832

AM General, LLC relies on the documents recorded at reel 021368, frame 0832, as proof that it is assignee of the instant application. The documents recorded at reel 021368, frame 0832, identified as documentary evidence establishing ownership are:

1. Two purchase orders;
2. A copy of the decision mailed April 13, 2007, granting a petition under 37 CFR § 1.47(b) in Application No. 11/670,217, the subject matter of which "is identical"[1] to the instant application.

37 CFR 3.21 states:

> An assignment relating to a patent must identify the patent by the patent number. **An assignment relating to a national patent application must identify the national patent application by the application number (consisting of the series code and the serial number, e.g., 07/123,456).** An assignment relating to an international patent application which designates the United States of America must identify the international application by the international application number (e.g., PCT/US90/01234). **If an assignment of a patent application filed under § 1.53(b) is executed concurrently with, or subsequent to, the execution of the patent application, but before the patent application is filed, it must identify the patent application by the name of each inventor and the title of the invention so that there can be no mistake as to the patent application intended.** If an assignment of a provisional application under § 1.53(c) is executed before the provisional application is filed, it must identify the provisional application by the name of each inventor and the title of the invention so that there can be no mistake as to the provisional application intended. (Emphasis added.)

The document recorded at Reel 021368, Frame 0832 does not comply with 37 CFR 3.21 as it fails to adequately identify the instant application. While the purchasing orders and Mutual Confidentiality Agreement, taken together, were deemed to show "sufficient proprietary interest to make the application for behalf of and as agent for all the inventors" in accordance with 37 CFR 1.47(b), these documents are insufficient in establishing the higher standard of actual ownership of the invention in accordance with 37 CFR 3.71. Examples of documents establishing evidence of actual ownership include an executed assignment, an order of a court that details and decrees ownership of the invention, etc. Sufficient evidence of actual ownership has not been provided.

AM General, LLC, has repeatedly asserted a sentence from the petition decision mailed April 13, 2007, in Application No. 11/670,217:

[1] Page 2 of the November 5, 2007 paper.

In addition, petitioner has provided a copy of two executed Purchasing Orders and an executed Mutual Confidentiality Agreement that, taken together, establish that Mr. Ruehl had an obligation to assign his rights in the invention to AM, General, LLC.

The statement in the decision on petition relates only to the decision on the petition under 37 CFR 1.47(b); it is not a determination of ownership of the invention. Furthermore, it should be noted that recording of the assignment is merely a ministerial act; it is neither an Office determination of the validity of the assignment document nor the effect of the assignment document on the ownership of the patent property. See MPEP §§ 301 and 317.03.

37 CFR 3.54 provides that, "When necessary, the Office will determine what effect a document has, including whether a party has the authority to take an action in a matter pending before the Office." The instant application was filed on behalf of sole inventor, Ruehl, by Nicholas Kees, an attorney associated with Customer Number 20572 and subsequently appointed by Mr. Ruehl on February 5, 2010, in a power of attorney to the practitioners associated with Customer Number 23869. Power of attorney was not established via an assignee. Therefore, the ownership entity filing the instant application was the sole inventor Ruehl.

AM General LLC, has not established its ownership and right to take action in the present application. No further revocations of power of attorney, or any other official correspondence, will be permitted by assignee AM General, LLC, based on the § 3.71 statements (information) currently of record.

Processing

After mailing of this decision, the application file record will be updated to identify as practitioners of record the practitioners associated with Customer Number 20572. The correspondence address will be updated to the address associated with Customer Number 20572.

Status of Application

The application has been docketed to the patent examiner for consideration of the response filed May 9, 2011. In view of the above, the response and information disclosure statement filed September 5, 2010, and the response filed May 20, 2011, signed by Gerard Gallagher, are not signed in accordance with 37 CFR 1.33(b) and will be closed.

Terry J. Dey Maciejewski

Terry J. Dey Maciejewski
Technical Writer/Editor
Office of Patent Legal Administration
(571) 272- 7730

UNITED STATES PATENT AND TRADEMARK OFFICE

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780 NORTH WATER STREET
MILWAUKEE WI 53202

MAILED

DEC 15 2011

OFFICE OF PETITIONS

In re Application of :
Phillip C. Ruehl :
Application No. 11/279,321 : DECISION ON PETITION
Filed: April 11, 2006 : TO MAKE SPECIAL UNDER
Attorney Docket No. **AMG0012.2** : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed November 30, 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) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a statement by a registered attorney. Accordingly, the above-identified application has been accorded "special" status.

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

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to Technology Center Art Unit 3635 for action on the merits commensurate with this decision.

/JoAnne Burke/
JoAnne Burke
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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MAILED

DEC 15 2011

OFFICE OF PETITIONS

In re Application of :
Phillip C. Ruehl :
Application No. 11/279,321 : DECISION ON PETITION
Filed: April 11, 2006 : TO MAKE SPECIAL UNDER
Attorney Docket No. **AMG0012.2** : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed November 30, 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) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a statement by a registered attorney. Accordingly, the above-identified application has been accorded "special" status.

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

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to Technology Center Art Unit 3635 for action on the merits commensurate with this decision.

/JoAnne Burke/
JoAnne Burke
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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MOTOROLA SOLUTIONS, INC.
IP Law Docketing
1301 EAST ALGONQUIN ROAD
IL02 5th Floor - SH5
SCHAUMBURG IL 60196

MAILED
JAN 18 2012
OFFICE OF PETITIONS

In re Application of :
Ellis A. Pinder et al. :
Application No. 11/279,345 : DECISION ON PETITION
Filed: April 11, 2006 :
Attorney Docket No. **CM08887J** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 27, 2011, to revive the above-identified application.

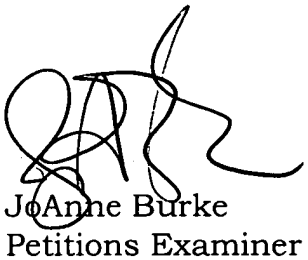
The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of April 26, 2011. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is July 27, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $930, and the submission required by 37 CFR 1.114; (2) the petition fee of $1,860; and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 2617 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.



JoAnne Burke
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Patent No. : 7,723,463 B2
Ser. No. : 11/279,414
Inventor(s) : Fox et al.
Issued : May 25, 2010
Title : POLYPHOSPHAZINE – BASED POLYMER MATERIALS
Docket No. : BA-095
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

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P.O. Box 1450
Alexandria, VA 22313-1450
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W. EDWARD RAMAGE
COMMERCE CENTER, SUITE 1000
211 COMMERCE ST
NASHVILLE TN 37201

MAILED

MAY 09 2011

OFFICE OF PETITIONS

In re Application of	:	
THURMAN	:	
Application No. 11/279,466	:	DECISION ON PETITION
Filed: April 12, 2006	:	TO WITHDRAW
Attorney Docket No.	:	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 23, 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 W. Edward Ramage on behalf of the attorneys of record associated with Customer No. 44777.

The attorneys of record associated with Customer No. 44777 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 first copied below 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: KRISTEN L. THURMAN
1306 JOHN SHARP ROAD
SPRING HILL TN 37174

cc : W. EDWARD RAMAGE
BAKER DONELSON,
211 COMMERCE STREET, SUITE 800
NASHVILLE, TN 37201

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/279,466	04/12/2006	Kristen L. Thurman	

CONFIRMATION NO. 8166

POWER OF ATTORNEY NOTICE

44777
W. EDWARD RAMAGE
COMMERCE CENTER SUITE 1000
211 COMMERCE ST
NASHVILLE, TN 37201

Date Mailed: 05/05/2011

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/23/2011.

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

/dcgoodwyn/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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CHEVRON CORPORATION
P.O. BOX 6006
SAN RAMON CA 94583-0806

MAILED

OCT 05 2010

OFFICE OF PETITIONS

In re Application of
Eugene E. Spala
Application No. 11/279,505
Filed: April 12, 2006
Attorney Docket No. T-6166

DECISION ON PETITION

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed September 30, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned at midnight December 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 an amendment, (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) 272-3213.

This application is being referred to Technology Center AU 1797 for appropriate action by the Examiner in the normal course of business on the reply received September 1, 2010.

Cheryl Gibson-Baylor
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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WHYTE HIRSCHBOECK DUDEK S C
INTELLECTUAL PROPERTY
DEPARTMENT
555 EAST WELLS STREET, SUITE 1900
MILWAUKEE WI 53202

MAILED
OCT 06 2010
OFFICE OF PETITIONS

In re Patent No. 7,762,492 :
Issue Date: July 27, 2010 :
Application No. 11/279,678 : DECISION ON PETITION
Filed: April 13, 2006 :
Attorney Docket No. MKD-32676 :

This is a decision on the Request For Certificate Of Correction Of Patent For Applicant's Mistake (37 C.F.R. Section 1.20(a)), filed August 19, 2010, requesting correction on the Title Page of the subject patent to identify the correct assignee's name and residence. The Request is being treated as a Petition Under 37 CFR §3.81(b). A completed Certificate of Correction Form (PTO/SB/44) was submitted with Petition.

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

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

"Muderlak Design, Inc., Milwaukee, WI (US)"

to:

--Xela Innovations, LLC, Glendale, WI (US)--

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

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

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

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

Any questions concerning the issuance of a Certificate of Correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

This matter is being referred to the Certificates of Correction Branch for processing of a Certificate of Correction in U.S. Patent No. 7,762,492.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

4/20/11

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 04/11/11

TO SPE OF : ART UNIT: 2112 Attn: LAMARRE GUY J

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/279683 Patent No.: 7644343

C of C Mailroom date: 03/29/11

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

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

Thank You For Your Assistance

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

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

Comments: _____

SCOTT BADERMAN
SUPERVISORY PATENT EXAMINER
SPE

2112
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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RAYTHEON COMPANY
C/O DALY, CROWLEY, MOFFORD & DURKEE, LLP
354A TURNPIKE STREET
SUITE 301A
CANTON MA 02021

MAILED
OCT 17 2011
OFFICE OF PETITIONS

In re Patent No. 7,757,595 :
Issue Date: July 20, 2010 :
Application No. 11/279,824 : DECISION ON PETITION
Filed: April 14, 2006 :
Attorney Docket No. RTN-287PUS :

This is a decision on the petition, filed, September 12, 2011, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee's residence on the front page of the above-identified patent by way of a certificate of correction.

The request is **GRANTED**.

Petitioner states that the correct assignee's residence is "Thales Raytheon Systems Company, LLC, Fullerton, CA (US)" and that the incorrect assignee's residence was included on the Fee(s) Transmittal form PTOL-85(b) at the time of payment of the issue fee. Accordingly, petitioner requests that a certificate of correction be issued to reflect the correct assignee's residence on the front page of the Letters Patent.

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

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

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

The request was accompanied by a certificate of correction (and fee) as required by 3.81(b). Further, Office assignment records reflect that "Thales Raytheon Systems Company, LLC, Fullerton, CA (US)" is the assignee's residence of record. Accordingly, as the request complies with the provisions of 37 CFR 3.81(b), it would be appropriate for a certificate of correction to be processed after issuance of this application into a patent.

Inquiries concerning this decision should be directed to Terri Johnson at (571) 272-2991. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

This matter is being referred to the Certificates of Correction Branch for processing of a certificate of correction.

/Terri Johnson/
Terri Johnson
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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LARRY A. SCHEMMEL
OFFICE OF THE ATTORNEY GENERAL
P.O BOX 1850
JACKSON, MS 39215-1850

MAILED
NOV 14 2011
OFFICE OF PETITIONS

In re Application of :
Charles G. O'Hara et al :
Application No. 11/279,841 : DECISION GRANTING PETITION
Filed: April 14, 2006 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 2343-211 US :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, November 10, 2011 to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on October 4, 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 2624 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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GLOBAL PATENT GROUP - FITZ
1005 WARSON ROAD
SUITE 201
ST. LOUIS MO 63132

MAILED

MAY 10 2011

OFFICE OF PETITIONS

In re Application of	:	
David FITZMAURICE	:	
Application No. 11/279,847	:	DECISION ON PETITION
Filed: April 14, 2006	:	
Attorney Docket No. FITZ0001-201-US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 20, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, October 07, 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 January 08, 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. Accordingly, the reply to the non-final Office action of October 07, 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 3771 for appropriate action by the Examiner in the normal course of business on the reply received

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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GLOBAL PATENT GROUP - FITZ
1005 NORTH WARSON ROAD
SUITE 201
ST. LOUIS MO 63132

MAILED

FEB 28 2012

OFFICE OF PETITIONS

In re Application of	:	
David FITZMAURICE et al.	:	**CORRECTED**
Application No. 11/279,847	:	DECISION ON PETITION
Filed: April 14, 2006	:	
Attorney Docket No. FITZ0001-201-US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 07, 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 June 08, 2011. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is September 09, 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 $465.00, and the submission required by 37 CFR 1.114; (2) the petition fee of $930.00; and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 3771 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

/Michelle R. Eason/
Michelle R. Eason
Paralegal Specialist
Office of Petitions

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

MAILED

AUG 05 2011

OFFICE OF PETITIONS

In re Application of	:	
Graham J. Bostock, et al.	:	
Application No. 11/279,976	:	DECISION GRANTING PETITION
Filed: April 17, 2006	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 51357UD043	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed August 3, 2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on June 9, 2011 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 3771 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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

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

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO, P.C.
ONE FINANCIAL CENTER
BOSTON MA 02111

MAILED

FEB 14 2011

OFFICE OF PETITIONS

In re Application of :
Ammar :
Application No. 11/280,003 : NOTICE
Filed: November 16, 2005 :
Attorney Docket No. 25960-614C03US :

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

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

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

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

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

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Bib Data Sheet

CONFIRMATION NO. 6369

SERIAL NUMBER	FILING OR 371(c) DATE	CLASS	GROUP ART UNIT	ATTORNEY DOCKET NO.
11/280,003	11/16/2005 RULE	324	2858	25960-614C03US

APPLICANTS

Danny F. Ammar, Windermere, FL;

**** CONTINUING DATA ***************************

This application is a CON of 10/995,952 11/23/2004 PAT 7,088,086
which is a CIP of 10/847,892 05/18/2004 PAT 7,034,516
which claims benefit of 60/504,182 09/18/2003

**** FOREIGN APPLICATIONS *********************

		STATE OR COUNTRY	SHEETS DRAWING	TOTAL CLAIMS	INDEPENDENT CLAIMS
Foreign Priority claimed	☐ yes ☐ no	FL	12	20	3
35 USC 119 (a-d) conditions met	☐ yes ☐ no ☐ Met after Allowance				
Verified and Acknowledged	Examiner's Signature Initials				

ADDRESS

30623

TITLE

MULTI-CHANNEL RADIOMETER IMAGING SYSTEM

FILING FEE RECEIVED		
800	FEES: Authority has been given in Paper No. _____ to charge/credit DEPOSIT ACCOUNT No. _____ for following:	☐ All Fees ☐ 1.16 Fees (Filing) ☐ 1.17 Fees (Processing Ext. of time) ☐ 1.18 Fees (Issue) ☐ Other _____ ☐ Credit

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6391 SPRINT PARKWAY
KSOPHT0101-Z2100
OVERLAND PARK KS 66251-2100

MAILED

DEC 10 2010

OFFICE OF PETITIONS

In re Application of :
Geoff S. MARTIN, et al :
Application No. 11/280,031 : ON PETITION
Filed: November 16, 2005 :
Attorney Docket No. 3266 :

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

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of May 26, 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 August 27, 2010.

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

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

This application is being referred to Technology Center AU 2448 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

MAILED
NOV 09 2011
OFFICE OF PETITIONS

In re Patent No. 8,046,043	:	
Asano et al.	:	DECISION ON APPLICATION
Issue Date: 10/25/2011	:	FOR PATENT TERM ADJUSTMENT
Application No. 11/280,100	:	AND
Filed: 11/16/2005	:	NOTICE OF INTENT TO ISSUE
Attorney Docket No.	:	CERTIFICATE OF CORRECTION
11333/100	:	

This is a decision on the "REQUEST FOR REVIEW OF PATENT TERM ADJUSTMENT" filed on October 21, 2011, which is treated as a petition under 37 CFR 1.705(d). Patentees request review of the patent term adjustment of 718 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 six hundred forty-seven (647) days.

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

On October 25, 2011, the above-identified application matured into U.S. Patent No. 8,046,043. The Patent issued with a revised Patent Term Adjustment of 718 days.

Patentees contend that the Patent Term Adjustment determination of 718 days may extend the term of the patent by too many days. Specifically, patentees state that there may be an error in the calculations associated with the Information Disclosure Statement (IDS) submitted on December 17, 2010. Patentees therefore request review and correction of the patent term adjustment.

Patentees' contention is persuasive, to the point indicated.

37 CFR 1.704 states, in pertinent part:

> (c) Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:
>
> ...
>
> (8) Submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the initial reply was filed and ending on the date that the supplemental reply or other such paper was filed

A review of the record reveals that on October 7, 2010, a request for continued examination (RCE) was filed. On December 17, 2010, 71 days after the day after the date the RCE was filed, a supplemental IDS was filed. The supplemental IDS did not contain the statement in accordance with 37 CFR 1.704(d). Accordingly, a 71 day reduction for applicant delay pursuant to 37 CFR 1.704(c)(8) is warranted and will be entered.

The patent term adjustment at the time of issuance of the patent is 647 days (680 days of Office delay + 288 days of three years delay - 39 overlapping days - 282 (211 + 71)) days of applicant delay).

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136. See 37 CFR 1.323(a)(4).

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

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

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

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by six hundred forty-seven **(647)** days.

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 8,046,043 B2

DATED : **Oct. 25, 2011** **DRAFT**

INVENTOR(S) : Asano 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 718 days.

Delete the phrase "by 718 days" and insert – by 647 days--

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Rahman LLC
10025 Governor Warfield Parkway
Suite 110
Columbia MD 21044

MAILED
JAN 04 2012
OFFICE OF PETITIONS

In re Application of :
Mahmoud F. Abdelgany :
Application No. 11/280,167 : NOTICE
Filed: November 16, 2005 :
Attorney Docket No. **CUS.5023** :

This is in response to the paper filed November 21, 2011 under 37 CFR 1.27(c) seeking status as a small entity.

The statement claiming small entity status of November 21, 2011, has been made of record and small entity status has been accorded.

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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BROWDY AND NEIMARK, PLLC
1625 K STREET, N.W.
SUITE 1100
WASHINGTON DC 20006

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NOV 01 2011
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In re Patent No. 7,399,178	:	
Issue Date: July 15, 2008	:	
Application No. 11/280,253	:	NOTICE
Filed: November 17, 2005	:	
Attorney Docket No. SHINODA1	:	

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

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

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

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

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

Thurman K. Page
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 08/28/10

TO SPE OF : ART UNIT 2625

SUBJECT : Request for Certificate of Correction for Appl. No.: 11280256 Patent No.: 7518742

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: _____

_____

_____

_____

_____

/Edward L. Coles/ — **SPE**

2625 — **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

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: 0595-1053	Patent Number: 7,668,639
Filing Date (or 371(b) or (f) Date): 17-Nov-2005	Issue Date: 23-Feb-2010
First Named Inventor: FRANCOIS, Daniel	
Title: A METHOD AND APPARATUS FOR OPTIMIZING THE PERFORMANCE ENVELOPE OF AN ENGINE	

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 18, 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: 08/25/2010

Applicant	: Daniel Francois	: DECISION ON REQUEST FOR
Patent Number	: 7668639	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/280,402	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/17/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **680** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
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PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7172939	2007-02-06	11280529	2005-11-15	38129-US-PA

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)
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U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
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Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Belinda Lee/	Date (YYYY-MM-DD)	2011-04-12
Name	Belinda Lee	Registration Number	46863

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

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Commissioner for Patents
United States Patent and Trademark Office
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In re Patent No. 7172939
Issue Date: February 6,2007
Application No. 11280529
Filed: November 15,2005
Attorney Docket No. 018757-004800US

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

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

The petition is **GRANTED**.

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

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

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FOLEY & LARDNER LLP
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON WI 53701-1497

MAILED

APR 25 2011

OFFICE OF PETITIONS

In re Application :
Ronald A. Brockmann et al. :
Application No. 11/280,573 : DECISION ON APPLICATION
Filed: November 16, 2005 : FOR PATENT TERM ADJUSTMENT
Attorney Docket No. 088245-2631 :

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT FOR PATENT APPLICATION UNDER 37 C.F.R. §1.705(b) filed April 12, 2011. Applicant requests that the determination of patent term adjustment be corrected from 763 to 1030 days. Applicant requests this correction in part on the basis that the Office will take in excess of three years to issue this patent and is considered in light of the recent court decision in light of the Court of Appeals for the Federal Circuit's decision in *Wyeth v. Kappos*, 2009-1120 (Fed. Cir. 1-7-2010).

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

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentees are entitled to for Office failure to issue the patent within three years. See 37 CFR 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under 37 CFR 1.702(a)(4) or applicant delay under 37 CFR 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the patent term adjustment relating to those provisions until the patent has issued.

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

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

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

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

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

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

[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.

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Townsend and Townsend and Crew LLP /Pulmonx 017534
Two Embarcadero Center, Eighth Floor
San Francisco CA 94111-3834

MAILED

JUN 20 2011

OFFICE OF PETITIONS

In re Application of :
Peter P. Soltesz, et al. :
Application No. 11/280,592 :
Filed: November 15, 2005 :
Attorney Docket No. 017534-002010US :

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 May 16, 2011.

The request is **NOT APPROVED**.

The request cannot be approved because it lacks a forwarding correspondence address of the first named inventor or a properly intervening assignee.

If the forwarding correspondence address is to the assignee, the Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest *that properly became of record under 37 CFR 3.71.* 37 CFR 3.71(c) states:

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

The assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, the statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

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

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-2991.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

cc: **KNOBBE MARTENS OLSON & BEAR LLP**
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

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Paper No. 9

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

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NOV 24 2010

OFFICE OF PETITIONS

In re Application of	:	
Feng Wu et al.	:	
Application No. 11/280,619	:	DECISION DISMISSING
Filed: November 16, 2005	:	PETITION UNDER
Attorney Docket No. MS1-1218USC1	:	37 CFR 1.313(c)(2)
	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed November 23, 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 filed after the application issued into patent no. 7,830,958 on November 9, 2010. 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)

Since the case has now issued, the petition to withdraw from issue cannot be granted. Petitioner's attention is also directed to MPEP § 1308.

Therefore, 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 to petitioner's credit card account as that is the method in which the fees were paid.

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).

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

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

RAM Fee History Query
Revenue Accounting and Management

Name/Number: 11280619 Total Records Found: 12
Start Date: Any Date End Date: Any Date

Accounting Date	Sequence Num.	Fee Type	Fee Code	Fee Amount	Mailroom Date	Payment Method
11/29/2010	00000001	4	1464	-$130.00	11/23/2010	OP
11/29/2010	00000002	4	1801	-$810.00	11/23/2010	OP
11/24/2010	00011159	4	1801	$810.00	11/23/2010	CC
11/24/2010	00011158	4	1464	$130.00	11/23/2010	CC
09/22/2010	00000363	4	1504	$300.00	09/21/2010	CC
09/22/2010	00000362	4	1501	$1,510.00	09/21/2010	CC
09/21/2010	00016813	4	1801	$810.00	09/21/2010	CC
09/13/2010	00002554	4	8021	$40.00	09/10/2010	CC
11/21/2005	00000128	1	1814	$130.00	11/16/2005	DA 120769
11/21/2005	00000127	1	1311	$200.00	11/16/2005	DA 120769
11/21/2005	00000125	1	1011	$300.00	11/16/2005	DA 120769
11/21/2005	00000126	1	1111	$500.00	11/16/2005	DA 120769

Adjustment date: 11/29/2010 LDIEP1
11/24/2010 INTEFSW 00007101 11280619
01 FC:1464 -130.00 OP
02 FC:1801 -810.00 OP

Refund Ref: 0030091185
11/29/2010

Credit Card Refund Total: $940.00

Am Exp..: XXXXXXXXXXX1109

RAM Fee History Query

Revenue Accounting and Management

Name/Number: 11280619

Total Records Found: 12

Start Date: Any Date

End Date: Any Date

Accounting Date	Sequence Num.	Fee Type	Fee Code	Fee Amount	Mailroom Date	Payment Method
11/29/2010	00000001	4	1464	-$130.00	11/23/2010	OP
11/29/2010	00000002	4	1801	-$810.00	11/23/2010	OP
11/24/2010	00011159	4	1801	$810.00	11/23/2010	CC
11/24/2010	00011158	4	1464	$130.00	11/23/2010	CC
09/22/2010	00000363	4	1504	$300.00	09/21/2010	CC
09/22/2010	00000362	4	1501	$1,510.00	09/21/2010	CC
09/21/2010	00016813	4	1801	$810.00	09/21/2010	CC
09/13/2010	00002554	4	8021	$40.00	09/10/2010	CC
11/21/2005	00000128	1	1814	$130.00	11/16/2005	DA 120769
11/21/2005	00000127	1	1311	$200.00	11/16/2005	DA 120769
11/21/2005	00000125	1	1011	$300.00	11/16/2005	DA 120769
11/21/2005	00000126	1	1111	$500.00	11/16/2005	DA 120769

Adjustment date: 11/29/2010 LDIEP1
11/24/2010 INTEFSW 00007101 11280619
01 FC:1464 -130.00 OP
02 FC:1801 -810.00 OP

UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND

1 Date of Request: 01/24/10

2 Serial/Patent # 11/280,619

3 Please refund the following fee(s):	4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
Filing			$
Amendment			$
Extension of Time			$
Notice of Appeal/Appeal			$
Petition		11/23/10	$ 130.00
Issue			$
Cert of Correction/Terminal Disc.			$
Maintenance			$
Assignment			$
Other RCE		11/23/10	$ 810.00

7 TOTAL AMOUNT OF REFUND $ 940.00

8 TO BE REFUNDED BY: cc

- Treasury Check
- Credit Deposit A/C #:

9 [ ][ ]--[ ][ ][ ][ ]

10 REASON:

- Overpayment
- Duplicate Payment
- No Fee Due (Explanation):

Petition dismissed as moot.

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: Karen Creasy TITLE: Petitions Examiner

SIGNATURE: /Karen Creasy/ PHONE: 2-3208

OFFICE: Petitions

****

THIS SPACE RESERVED FOR FINANCE USE ONLY:

APPROVED: kd DATE: 11/26/10

Instructions for completion of this form appear on the back. After completion, attach white and yellow copies to the official file and mail or hand-carry to:

Office of Finance
Refund Branch
Crystal Park One, Room 802B

FORM PTO 1577
(01/90)

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LAW OFFICE OF MICHAEL D. EISENBERG
INTELLECTUAL PROPERTY LAW
3258 CAMINITO EASTBLUFF
SUITE 89
SAN DIEGO, CA 92037

MAILED
JUL 08 2011
OFFICE OF PETITIONS

In re Application of :
Rabih Ghrabieh :
Application No. 11/280,667 : DECISION ON PETITION
Filed: November 15, 2005 :
Attorney Docket No.: CHRABIEH-P001 :

This is a decision on the petition, filed June 22, 2011, requesting withdrawal of the holding of abandonment in the above-identified application under 37 CFR 1.181 (no fee).

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the final Office action mailed July 29, 2010, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on February 16, 2011.

Petitioner asserts that the Office communications were not received.

A review of the written record indicates an irregularity in the mailing of the Office action of July 29, 2010. In this regard, a proper Revocation of Power of Attorney with a New Power of Attorney and a Change of Correspondence Address was filed on May 11, 2010, which is prior to the mailing of the Office action of July 29, 2010. Unfortunately, Office records were not updated to reflect the change requested. As the Office action was mailed to an incorrect address, the Notice of Abandonment mailed February 16, 2011 is hereby vacated and the holding of abandonment withdrawn.

Office records have been corrected in accordance to the power of attorney and change of address filed on May 11, 2011.

This application is being referred to the Technology Center technical support staff of Art Unit 2192 for remailing the Office action of July 29, 2010 and resetting the period for reply.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO CA 92121

MAILED

AUG 24 2010

OFFICE OF PETITIONS

In re Application of :
Rashid A. ATTAR et al. :
Application No. 11/280,669 : DECISION ON PETITION
Filed: November 15, 2005 :
Attorney Docket No. **050310** :

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

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue and publication fees on or before November 25, 2009, as required by the Notice of Allowance and Fee(s) Due (Notice), mailed August 25, 2009, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on November 26, 2009.

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

The petition fee of $1620 included with the instant petition is unnecessary and is being credited to Deposit Account 17-0026.

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

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO CA 92121

MAILED

SEP 23 2011

OFFICE OF PETITIONS

In re Application of	:	DECISION ON REQUEST
Attar et al.	:	FOR RECONSIDERATION OF
Patent Number: 7,924,753	:	PATENT TERM ADJUSTMENT
Issue Date: 04/12/2011	:	and
Application No. 11/280669	:	NOTICE OF INTENT TO ISSUE
Filing or 371(c) Date: 04/12/2011	:	CERTIFICATE OF CORRECTION
Attorney Docket Number:	:	
050310	:	

This is a decision on the petition filed on filed August 26, 2011, requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand seventeen (1017) 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 one thousand seventeen (1017) days is **GRANTED**.

A review of Office records confirms that the application was abandoned on November 26, 2009; that a grantable petition to revive the application was filed on July 29, 2010, and that a Decision granting the petition to revive the application was mailed on August 24, 2010. Pursuant to 37 CFR 1.704(c)(3), the period of delay begins on the date of abandonment, November 26, 2010, and ends on the date of mailing of the decision reviving the application, August 24, 2010, or 272 days[1].

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.

[1] The 12-day period of abandonment pursuant to 37 CFR 1.704(c)(4), beginning on the day after the date two months from the mailing date of a notice of abandonment, February 12, 2010, and ending on the date a petition to withdraw the holding of abandonment or to revive the application was filed, February 23, 2010, overlaps with the period of abandonment pursuant to 37 CFR 1.704(c)(3).

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 seventeen (1017) days.**

Telephone inquiries specific to this matter should be directed to, at (571) 272-3232.

/DW/

Derek Woods
Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,924,753 B2

DATED : April 12, 2011

INVENTOR(S) : Attar 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 1289 days.

Delete the phrase "by 1289 days" and insert – by 1017 days--

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

MAILED
NOV 07 2011
OFFICE OF PETITIONS

In re Patent of Lynch et al.	:	
Patent No. 8,001,458	:	DECISION ON REQUEST FOR
Issue Date: August 16, 2011	:	RECONSIDERATION OF
Application No. 11/280,714	:	PATENT TERM ADJUSTMENT
Filed: November 15, 2005	:	
Attorney Docket No. 07844-0767001/M168	:	

This is a decision on the petition filed on October 17, 2011, under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand six hundred seventy-one (1671) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED TO THE EXTENT INDICATED HEREIN.**

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of one thousand four hundred fifty-one (1451) days.

On August 16, 2011, the above-identified application matured into U.S. Patent No. 8,001,458, with a revised patent term adjustment of 1660 days. On October 14, 2011, patentees timely submitted this request for reconsideration of patent term adjustment (with required fee), asserting that the correct number of days of Patent Term Adjustment is 1671. Patentees assert the Office incorrectly calculated Office delay pursuant to 37 CFR 1.702(b). Patentees argue there should be no reduction for time consumed by appellate review by the board of Patent Appeals and Interferences pursuant to 35 U.S.C.

154(b)(1(B)(i). Patentees request removal of the 220 day exclusion for time consumed by appellate review.

As such, Patentees maintain that the total B delay should be increased from 784 to 1004 days.

In addition, in good faith and candor, Patentees disclose an additional period of reduction that was not considered in the PTA calculations. Patentees disclose the Office failed to enter a 3 day reduction pursuant to 37 CFR 1.704(c)(10) for the Request for Corrected Official Filing Receipt, filed on June 21, 2011, after a notice of allowance was mailed on April 15, 2011. Patentees argue no reduction is in order for the reply filed on January 31, 2011, a Monday, in response to a non-final Office action, mailed October 29, 2010.

Patentees conclude that the correct patent term adjustment is 1671 days (the sum of 878 days of "A delay" and 1004 days of "B delay" minus 3 days of Applicant delay).

Patentees' determination of the B delay period fails to properly calculate the time excluded from B delay due to appellate review. 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 220 days, beginning on March 24, 2010, the date of filing of the notice of appeal and ending on October 29, 2010, the subsequent date of the mailing of a non-final Office action.

Thus, B delay is 784 (1004 - 220) days.

It is noted that the Office issued a Notice of proposed rulemaking entitled Revision of Patent Term Extension and Adjustment Provisions Relating to Appellate Review and Information Disclosure Statements, 76 FR 18990 (April 6, 2011). To the extent that the final rule on Revision of Patent Term Extension and Adjustment Provisions Relating to Appellate Review revises the interpretation of appellate review applied in this decision, Patentees are given one (1) month or thirty (30) days,

whichever is longer, from the date of the final rule to file a request for reconsideration. No extensions of time will be granted under § 1.136.

The Office has determined that no reduction is warranted for the reply filed on Monday, January 31, 2011, to the non-final Office action mailed October 29, 2010. The 2 day reduction is being removed.

Patentees are correct that the Office failed enter a reduction pursuant to 37 CFR 1.704(c)(10) in connection with the Request for Corrected Official Filing Receipt, filed on June 21, 2011. It is undisputed that the Request for Corrected Official Filing Receipt was filed after the mailing of the April 15, 2011 Notice of Allowance. This was properly a basis for reduction of patent term adjustment pursuant to § 1.704(c)(10).

37 CFR § 1.704(c)(10) provides that:

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

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

or

(ii) Four months;

Thus, applicants failed to engage in reasonable efforts to conclude prosecution of the application. The period of adjustment should have been reduced by 3 days pursuant to 37 CFR 1.704(c)(10), counting the number of days beginning on the day the Request for Corrected Official Filing Receipt was filed, June 21, 2011, and ending on the date that the Office mailed a corrected filing receipt, June 23, 2011. Accordingly, a period of reduction of 3 days will be entered.

In view thereof, the patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of one thousand four hundred fifty-one (1451) days, which is 878 days of A delay + 784 (1004 - 220) days of B delay minus 208 overlapping days, minus 3 days of Applicant delay.

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

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

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

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand four hundred fifty-one (1451)** days.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 8,001,458 B1

DATED : **August 16, 2011** **DRAFT**

INVENTOR(S) : Lynch 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 1660 days

Delete the phrase "by1660 days" and insert – by 1451 days--

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Paper No.

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

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JAN 05 2012
OFFICE OF PETITIONS

In re Application of	:	
Salzmann et al.	:	DECISION ON
Application No. 11/280,978	:	PETITION
Filed: November 16, 2005	:	
Atty Docket No. AUROBIO.046A	:	

This is a decision on the "REQUEST TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 C.F.R. 1.181(a)" filed December 21, 2011.

By Notice mailed December 8, 2011, applicant was advised that the application was abandoned for failure to timely file a reply to the final Office action mailed January 27, 2011. The Office action set a three-month shortened statutory period for reply, with extensions of time obtainable under 37 CFR 1.136(a).

In response, applicant timely filed the instant petition. Applicant's arguments have been considered and found persuasive to the extent that applicant timely and properly responded to the final Office action. The record shows that, on Monday, November 19, 2007, applicant timely and properly responded to the final Office action with the filing of a notice of appeal and appeal fee (with an extension of time for response within the first month and the extension fee). Accompanying this response was a Pre-Appeal Brief Request for Review. Further, on June 27, 2011, the Office mailed a Notice of Panel Decision from Pre-Appeal Brief Review. This Notice set (the greater period of) a two-month period from the filing of the notice of appeal on May 27, 2011 to file an Appeal Brief, with extensions of time

obtainable under §1.136(a). Thus, at the time of the mailing of the Notice of Abandonment mailed December 8, 2011, the extendable period for reply continued to run. In fact, a proper reply in the form of a request for continued examination, a RCE fee and a submission were filed on December 21, 2011. This response was made timely by an accompanying extension of time for response within the fifth month. Under the circumstances, withdrawal of the holding of abandonment is warranted.

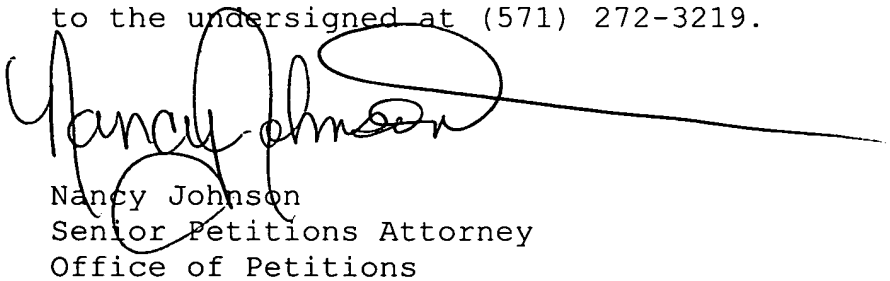
In view thereof, the holding of abandonment is hereby **WITHDRAWN**.

The petition under § 1.181 is **GRANTED**.

No fee is required on petition under § 1.181.

Technology Center AU 3643 has been advised of this decision. The application file is, thereby, forwarded to the Technology Center's technical staff to withdraw the holding of abandonment and for the examiner to respond to the request for continued examination and submission timely filed December 21, 2011.

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 27 2010

OFFICE OF PETITIONS

Chi Yung Fu
34 Cameo Way
San Francisco CA 94131

In re Application of
Chi Yung Fu
Application No. 11/281,048
Filed: November 16, 2005

DECISION ON PETITION

This is a decision on the petition, filed July 6, 2010, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely pay the issue and publication fees on or before March 8, 2010, as required by the Notice of Allowance and Fee(s) Due (Notice), mailed December 7, 2009. The Notice of Abandonment was mailed March 22, 2010.

Petitioner asserts that the Office action dated December 7, 2009 was not received.

A review of the written record indicates an irregularity in the mailing of the Notice of Allowance and Fee(s) Due (Notice) of December 7, 2009. In this regard, the Office received a request for change of address on November 6, 2009, prior to the mailing of the Office action of December 7, 2009. Office records were not timely updated to reflect this change of address. Accordingly, as the Office action was mailed to an incorrect address, the Notice of Abandonment mailed March 22, 2010 is hereby vacated and the holding of abandonment withdrawn.

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

This application is being referred to the Technology Center technical support staff of Art Unit 1797 for re-mailing the Notice of Allowance and Fee(s) Due (Notice) of December 7, 2009 and resetting the period for reply.

/Ramesh Krishnamurthy/
Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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MAILED
JUN 21 2011
OFFICE OF PETITIONS

In re Patent No. 7,869,420	:
Tighe et al.	: DECISION ON REQUEST FOR
Issue Date: January 11, 2011	: RECONSIDERATION OF
Application No. 11/281,104	: PATENT TERM ADJUSTMENT
Filed: November 16, 2005	:
Attorney Docket No. 100101-014000US	:
Title: METHOD AND SYSTEM FOR IN-BAND SIGNALING OF MULTIPLE MEDIA STREAMS	:

This is a decision on the petition filed on March 11, 2011, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand three hundred eighty-four (1,384) days.

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

BACKGROUND

On January 11, 2011, the above-identified application matured into U.S. Patent No. 7,869,420, with a revised patent term adjustment of 1,257 days. On March 11, 2011, patentee timely submitted this request for reconsideration of patent term

adjustment (with required fee), asserting that the correct number of days of Patent Term Adjustment is 1,384. Patentee maintains that the Office incorrectly calculated Office delay pursuant to 37 CFR 1.702(b). Patentee contends that the Office erred in subtracting from the "B delay" a period of time that was not "consumed by continued examination of the application." Specifically, Patentee argues that (after the filing of the request for continued examination) the Office mailed a Notice of Allowance on September 7, 2010, thereby closing examination of the application on that date. Thus, Patentee argues no continued examination took place during the 127 day period from September 7, 2010 (the mailing date of the Notice of Allowance) until January 11, 2011 (the date the patent was issued). As such, Patentee maintains that the "B delay" should include the 127 days and be increased from 587 to 714 days. Patentee concludes that the correct patent term adjustment is 1,384 days (the sum of 967 days of "A delay" and 714 days of "B delay" minus 297 days of overlap between "A delay" and "B delay").

RELEVANT STATUTE AND REGULATIONS

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

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

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

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

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

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

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

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

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

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

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

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

OPINION

Patentee's arguments have been considered, but not found persuasive. The Office calculated the period of "B delay" pursuant to 35 U.S.C. 154(b)(1)(B)(i) and 37 CFR 1.702(b)(1) as 587 days based on the application having been filed under 35 U.S.C. 111(a) on November 16, 2005 and the patent not having issued as of the day after the three year date, November 17, 2008, and a request for continued examination under 132(b) having been filed on June 27, 2010. In other words, the 127-day period beginning on the date of mailing of the notice of allowance to the date of issuance of the patent was considered time consumed by continued examination of an application under 35 U.S.C. 132(b) and was not included in the "B delay."

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

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

Further, counting the period of time excluded from the "B delay" for the filing of a request for continued examination under 35 U.S.C. 132(b), from the date on which the request for continued examination is filed to the date the patent is issued is proper. Patentee does not dispute that time consumed by continued examination of an application under 35 U.S.C. 132(b) is properly excluded and that the calculation of the excluded period begins on the date of filing of the request for continued examination. At issue is what further processing or examination beyond the date of filing of the request for continued examination is not any time consumed by continued examination of the application under 35 U.S.C. 132(b). The USPTO indicated in September of 2000 in the final rule to implement the patent term adjustment provisions of the AIPA that once a request for continued examination under 35 U.S.C. 132(b) and 37 CFR 1.114 is filed in an application, any further processing or examination of the application, including granting of a patent, is by virtue of the continued examination given to the application under 35 U.S.C. 132(b) and CFR 1.114. See Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term, 65 Fed. Reg. 56366,

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[1] Pursuant to 35 U.S.C. 132(b), 37 CFR 1.114 provides for continued examination of an application, as follows:

(a) If prosecution in an application is closed, an applicant may request continued examination of the application by filing a submission and the fee set forth in § 1.17(e) prior to the earliest of:

(1) Payment of the issue fee, unless a petition under § 1.313 is granted;

(2) Abandonment of the application; or

(3) The filing of a notice of appeal to the U.S. Court of Appeals for the Federal Circuit under 35 U.S.C. 141, or the commencement of a civil action under 35 U.S.C. 145 or 146, unless the appeal or civil action is terminated.

(b) Prosecution in an application is closed as used in this section means that the application is under appeal, or that the last Office action is a final action (§ 1.113), a notice of allowance (§ 1.311), or an action that otherwise closes prosecution in the application.

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, 139, 88 U.S.P.Q.2d, 1538 (D.D.C. 2008), because the clock for calculating the 20-year patent term begins to run on the filing date, and not on the day the patent is actually granted, some of the effective term of a patent is consumed by the time it takes to prosecute the application. To mitigate this effect, the statute, *inter alia*, grants adjustments of patent term whenever the patent prosecution takes more than three years, regardless of the reason. The time consumed by prosecution of the application includes every day the application is pending before the Office from the actual filing date of the application in the United States until the date of issuance of the patent. The time it takes to prosecute the application ends not with the mailing of the notice of allowance, but with the issuance of the patent.

Thus, not including "any time consumed by" means not including any days used to prosecute the application as specified in clauses (i)-(ii)[2]. Clause (i) specifies "any time consumed by

[2] Clause (iii) provides for not including (iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued. It is noted that paragraph (3)(C) allows with an adequate showing by applicant for reinstatement of no more than 3 months of the patent term reduced for applicant delay in taking in excess of three months to respond.

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[3] permit the filing of a request for continued examination under 37 CFR 1.114 even after the issuance of a notice of allowance under 35 U.S.C. 151. See 37 CFR 1.114(a)(1).

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

All of the continued examination pursuant to the filing of the request by the applicant is properly excluded from the delay attributed to the Office. 35 U.S.C. 154(b)(1)(B)'s guarantee of a total application pendency of no more than three years provides for adjustment of the patent term for delay due to the Office's

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

failure to issue the patent within three years, but does not include "any time consumed by continued examination requested by the applicant under 35 U.S.C. 132(b)." It is not necessary to mitigate the effect on the 20-year term to the extent that applicant has requested that the Office continue to examine the application via a request for continued examination, in lieu of, the filing of a continuing application under 37 CFR 1.53(b).

In this instance, a request for continued examination was filed on June 27, 2010, and the patent issued by virtue of that request on January 11, 2011. Pursuant to 35 U.S.C. 154(b)(1)(B)(i), the period beginning on June 27, 2010 and ending on January 11, 2011 is not included in calculating Office delay.

CONCLUSION

In view thereof, it is concluded that the patent term adjustment of 1,257 days indicated on the patent is correct.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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MAILED
MAR 03 2011
OFFICE OF PETITIONS

In re Patent No. 7,304,780	:	
Issued: December 4, 2007	:	
Application No. 11/281,208	:	ON PETITION
Filed: November 15, 2005	:	
Attorney Docket No. 07783.0166.NPUS01	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed January 26, 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.

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

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Viola T. Kung
2941 Fairview Park Drive, Suite 200
Falls Church, VA 22042

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MAILED

MAR 09 2011

OFFICE OF PETITIONS

In re Application of :
Chen Yehezkel Burshan et al :
Application No. 11/281,252 : ON PETITION
Filed: November 16, 2005 :
Attorney Docket No. 50325-1180

This is a decision on the petition, filed March 8, 2011 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on March 2, 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 2453 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).

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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.
11/281,267	11/17/2005	Francis Kapo Tse	20042011-US-NP	2322

75931 7590 03/25/2011

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1777 PENFIELD ROAD
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EXAMINER	
HUNTSINGER, PETER K	

ART UNIT	PAPER NUMBER
2625	

NOTIFICATION DATE	DELIVERY MODE
03/25/2011	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):

dmasters@bnpatentlaw.com
dneels@bnpatentlaw.com
mnickerson@bnpatentlaw.com

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BASCH & NICKERSON LLP
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In re Application of:
TSE, FRANCIS KAPO et al
Application Serial No.: 11/281,267
Filed: November 17, 2005
For: **METHOD AND SYSTEM FOR IMPROVED COPY QUALITY IN A MULTIFUNCTION REPROGRAPHIC SYSTEM**

DECISION
ON PETITION

This is a decision on the petition filed March 16, 2011 to request a refund of the payment of Notice of Appeal fees paid on September 3, 2010. The petition is treated under 37 CFR 1.181.

The Petition is **Granted**.

On October 5, 2009, the Applicant filed a Notice of Appeal and a Request for Pre-Appeal Conference, along with the required fees of $540.00.

On October 19, 2009, the Examiner issued a non-final Office Action reopening prosecution based on the Response of September 11,2009.

On January 16, 2010, the Applicant filed a Response to the Office Action dated October 19, 2009.

On May 4, 2010, the Examiner issued a second Final Office Action to the Response of January 16, 2010.

On July 1, 2010, the Applicant filed a Response to the Final Office Action dated May 4, 2010.

On September 3, 2010, the Applicant filed a Notice of Appeal and a Request for Pre-Appeal Conference, along with the required fees of $540.00.

1204.01 [R-3] Reinstatement of Appeal
If an appellant wishes to reinstate an appeal after prosecution is reopened, appellant must file a new notice of appeal in compliance with 37 CFR 41.31 and a complete new appeal brief in compliance with 37 CFR 41.37. Any previously paid appeal fees set forth in 37 CFR 41.20 for filing a notice of appeal, filing an appeal brief, and requesting an oral hearing (if applicable) will be applied to the new appeal on the same application as long as a final Board decision has not been made on the prior appeal. If, however, the appeal fees have increased since they were previously paid, then appellant must pay the

difference between the current fee(s) and the amount previously paid. Appellant must file a complete new appeal brief in compliance with the format and content requirements of 37 CFR 41.37(c) within two months from the date of filing the new notice of appeal. See MPEP § 1205.

Appellant's have filed a new notice of appeal in compliance with 37 CFR 41.31, a final Board decision has not been made on the prior appeal, and the appeal fees have not increased since they were previously paid.

Therefore it is determined that the notice of appeal fee payment of October 5, 2009 will be applied to the new notice of appeal and the notice of appeal fee payment of September 3, 2010 will be refunded to the appellant.

The Petition is **GRANTED**.

The application file is being forwarded to Technology Center 2600 support staff for refunding $540.00 to the appellant, as requested.

/Wellington Chin/

Wellington Chin,
Quality Assurance Specialist
Technology Center 2600

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.

REED SMITH LLP
P.O. BOX 488
PITTSBURGH PA 15230-0488

MAILED
JAN 24 2012
OFFICE OF PETITIONS

In re Application of :
Terrell et al. :
Application No. 11/281,294 :
Filed: November 17, 2005 : DECISION ON PETITION
Attorney Docket No. 09-40040-US : UNDER 37 C.F.R. § 1.137(B)
Title: PROCESS FOR PRODUCTION :
OF 1,2,2,2-TETRAFLUORO ETHYL :
DIFLUORO METHYL ETHER :

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**.

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 June 14, 2011, which set a shortened statutory period for reply of three months. An after-final amendment was received on December 13, 2011 along with a three-month extension of time so as to make timely the response, and an advisory action was mailed on December 21, 2011. No additional extensions of time under the provisions of 37 C.F.R § 1.136(a) were available, and no further responses were received. Accordingly, the above-identified application became abandoned on December 15, 2011.

On December 22, 2011, Petitioner filed a Request for Continued Examination (RCE) along with the associated fee, the petition fee, and the proper statement of unintentional delay. The after-final amendment of December 13, 2011 has been accepted as the required reply under 37 C.F.R. § 1.137(b)(1).

As such, the first three requirements of Rule 1.137(b) have been met. The fourth requirement of Rule 1.137(b) is not applicable, as a terminal disclaimer is not required.[1]

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the submission under 37 C.F.R. § 1.114 - the after-final amendment submitted on December 13, 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 Petitioner's further action(s).

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/281,342	11/18/2005	Jacques Faguet	274020US6YA	2872

22850 7590 05/10/2011

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

EXAMINER	
BURKHART, ELIZABETH A	
ART UNIT	**PAPER NUMBER**
1715	

NOTIFICATION DATE	DELIVERY MODE
05/10/2011	ELECTRONIC

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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Mailed : MAY 10 2011

In re Application of : DECISION ON
Faguet : PETITION
Serial No. 11/281,342 :
Filed: November 18, 2005
For: **METHOD AND SYSTEM FOR PERFORMING PLASMA ENHANCED ATOMIC LAYER DEPOSITION**

This is a decision on the PETITION FILED UNDER 37 CFR 1.181 on January 5, 2011 to consider the Information Disclosure Statement (IDS) that was filed on December 14, 2010. The IDS cited document AW.

The Examiner did consider the IDS on December 29, 2010.

DECISION

Accordingly, the petition is **DISMISSED**.

Karen M. Young

Karen M. Young, Director
Technology Center 1700
Chemical and Materials Engineering

wk

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

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: 0509-1081-1	Patent Number: 7,662,270
Filing Date (or 371(b) or (f) Date): 18-Nov-2005	Issue Date: 16-Feb-2010
First Named Inventor: TZEDAKIS, Theodore	
Title: ELECTROCHEMICAL REACTION METHOD AND MICROCHANNEL ELECTROCHEMICAL REACTOR AND ITS MANUFACTURING METHOD	

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

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

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

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

Signature /Benoit Castel/	Date August 10, 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.

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

Instruction Sheet for:
REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH**

(Not to be Submitted to the USPTO)

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

This form must be filed within 180 days of the day the patent was granted, with the following exception:

> Patentees who received a decision from the USPTO under the USPTO's pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A) may file a request for reconsideration of that decision if such a request for reconsideration is filed within **two months** of the date of the decision (37 CFR 1.181(f)). If the patentee's sole basis for requesting reconsideration of the decision is the USPTO's pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A), the request for reconsideration need only state that reconsideration is being requested in view of Wyeth (this form may be used for this purpose if it is filed within **two months** of the date of the decision from the USPTO).

Do not use this form if the application has been allowed, but not yet issued as a patent.

1. **For patents issued before March 2, 2010:** A request for reconsideration under 37 CFR 1.705(d) and the fee set forth in 37 CFR 1.18(e) are not required, provided that the patentee's sole basis for requesting recalculation of the PTA in the patent is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A) and this form is filed within 180 days of the day the patent was granted.

2. **For patents issued on or after March 2, 2010 (do not use this form):** Patentees seeking a revised PTA in a patent issued on or after March 2, 2010, must file a request for reconsideration under 37 CFR 1.705(d) that complies with the requirements of 37 CFR 1.705(b)(1) and (b)(2) within two months of the day the patent issued.

For more information, see "Notice Concerning Calculation of the Patent Term Adjustment With Respect to the Overlapping Delay Provision of 35 U.S.C. 154(b)(2)(A)" available on the USPTO Web site at http://www.uspto.gov/patents/law/notices/2010.jsp.

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

Privacy Act Statement

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

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

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

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YOUNG & THOMPSON
209 Madison Street
Suite 500
Alexandria, VA 22314

Mail Date: 08/17/2010

Applicant	: Theodore Tzedakis	: DECISION ON REQUEST FOR
Patent Number	: 7662270	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/281,434	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/18/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1092** 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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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/281,521	11/17/2005	Paul Smith	1085-070-PWH	2550

60597 7590 08/01/2011

HANCOCK HUGHEY LLP
P.O. BOX 6553
PORTLAND, OR 97228

EXAMINER	
JOYCE, WILLIAM C	
ART UNIT	PAPER NUMBER
3656	
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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AUG - 1 2011

HANCOCK HUGHEY LLP
P.O. BOX 6553
PORTLAND OR 97228

In re Application of :
Smith P. : **DECISION ON PETITION**
Application No. 11/281,521 : **UNDER 37 CFR §1.181**
Filed: Nov 17, 2005 :
For: SELF-LUBRICATING BEARING :

This is a decision on the petition under 37 CFR 1.181 filed November 2, 2009 for review of a restriction requirement mailed May 6, 2009. The delay is regretted.

The petition is **DISMISSED**.

A review of the record indicates that on May 6, 2009, the Examiner issued a restriction requirement indicating two distinct Inventions, I & II; and also indicating two patentably distinct species, A & B.

On June 5, 2009, the Applicants filed a response to the restriction requirement electing Invention II and also electing Species A, upon which claims 1-8, 13, 14, 18-23, 28-30 read. This election by the applicant was with traverse arguing that the Examiner, in both instances, did not adequately show serious burden.

In an Office Action dated August 6, 2009 the examiner indicating that the arguments were not persuasive because, for example, Group I (claims 1-12 and 23-25) and Group II (claims 13-22 and 26-30) have: (a) a separate status in the art in view of their different classification and (b) a different field of search (for example, searching different classes/subclasses or electronic resources, or employing different search queries). The requirement was made FINAL.

Applicants' petition alleges that the election requirement is improper and that a prima facie case has not been established in accordance with the requirements of MPEP § 803. The applicants argue that the election requirement is improper because the examiner has not met his burden to show that there would be a serious burden if restriction were not required. Further, the applicants argue that claims 13 and 15 cannot properly be considered mutually exclusive species and therefore cannot be properly restricted.

With respect to applicants' allegation that the examiner failed to show that there would be a serious burden if restriction were not required, a review of the record clearly indicates that the examiner indeed showed that there would be a serious burden if restriction were not required. The record shows that, at a minimum:

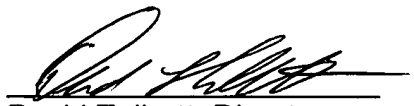
(a) a separate status in the art in view of their different classification and
(b) a different field of search (for example, searching different classes/subclasses or electronic resources, or employing different search queries).

For example, regarding the distinct inventions, Group I (claims 1-12 and 23-25) would require searching class 29, subclass 989. Group II (claims 13-22 and 26-30) would require searching class 384, subclass 267, as previously explained in the restriction requirement made by the examiner. Regarding the patentably distinct species A & B, a different field of search employing at least different search queries would ensue. For example, Species B (Fig 3) would require searching queries relating to the wear resistant material, which is not required for patentability of Species A (fig 1-2).

With respect to applicants' allegation that claims 13 and 15 cannot properly be considered mutually exclusive species and therefore cannot be properly restricted, it is noted that claims themselves are never species. The scope of a claim may be limited to a single disclosed embodiment (i.e., a single species, and thus be designated a specific species claim). Alternatively, a claim may encompass two or more of the disclosed embodiments (and thus be designated a generic or genus claim). Species always refer to the different embodiments of the invention. Species may be either independent or related as disclosed (see MPEP § 806.04 and § 806.04(b)). In the instant case, the applicant indicates Species B (fig 3) as an alternative embodiment to that of Species A (fig. 1-2). Figure 3 discloses a distinct invention requiring a wear resistant material for patentability (e.g. titanium carbide is disclosed by applicant). This wear resistant material is not required for patentability of Species A (fig. 1-2). It is further noted that, in making a requirement for restriction in an application claiming plural species, the examiner should group together species considered clearly unpatentable over each other MPEP 806.04h). Species always refer to the different embodiments of the invention (see MPEP § 806.04 and § 806.04(b)). Claims are definitions or descriptions of inventions. Species always refer to the different embodiments of the invention. Species may be either independent or related as disclosed (see MPEP § 806.04 and § 806.04(b)).

In view of the findings noted above, the restriction requirement is deemed proper. Accordingly, the application will be returned to the examiner for consideration of the amendment filed November 2, 2009.

Any questions regarding this decision should be directed to Richard Ridley at (571) 272-6917.



David Talbott, Director
Technology Center 3600
(571) 272-5150
TL

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

MAILED

AUG 3 0 2010

OFFICE OF PETITIONS

In re Application of	:	
Tae Wook KIM et al.	:	
Application No. 11/281,580	:	
Filed: November 18, 2005	:	NOTICE UNDER 37 CFR. 1.28(c)
Patent No. 7,319,364	:	
Issued: January 15, 2008	:	
Attorney Docket No. 078134-0117	:	

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

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

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

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

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

Thurman K. Page
Petitions Examiner
Office of Petitions

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OBLON SPIVAK MCCLELLAND MAIER & NEUSTADT LLP
1940 DUKE STREET
ALEXANDRIA VA 22314

MAILED
JAN 06 2012
OFFICE OF PETITIONS

In re Patent No. 8,074,273 :
Issue Date: December 6, 2011 :
Application No. 11/281,587 : DECISION ON PETITION
Filed: November 18, 2005 :
Attorney Docket No. 281548US2X :

This is a decision on the "PETITION FOR CERTIFICATE OF CORRECTION UNDER 37 CFR § 1.183", filed December 19, 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 $100 fee for the Certificate of Correction is and the $130 processing fee for the instant petition is acknowledged.

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

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

Cliff Congo
Petitions Attorney
Office of Petitions

[2] MPEP 307.

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FLASTER/GREENBERG P.C.
Four Penn Center
1600 John F. Kennedy Boulevard
2nd Floor
PHILADELPHIA PA 19103

MAILED

MAR 15 2011

OFFICE OF PETITIONS

In re Application of

Gardner, et al.

Application No. 11/281,655

Filed: November 17, 2005

Attorney Docket No. **H0450-324U1**

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181(a) to withdraw the holding of abandonment, filed February 8, 2011.

The petition under 37 CFR 1.181(a) to withdraw the holding of abandonment is **granted**.

This application was held abandoned on September 10, 2010, after it was believed that no response was received to the final Office action mailed June 9, 2010, was received. The notice allowed a shortened statutory period for reply of three (3) months from its mailing date. Extensions of the time set for reply were available pursuant to 37 CFR 1.136(a). A Notice of Abandonment was mailed on December 27, 2010, indicating that a reply to the notice was not received.

A review of the application file record did reveal that a response to the final Office action was filed on December 14, 2010, with a request for an extension of time within the third month and an authorization to charge a deposit account for the same. Based on the aforementioned, it appears that the application was improperly held abandoned as a response was received prior to expiration of the shortened statutory period for reply. The holding of abandonment is withdrawn, accordingly.

Deposit account 50-3541 will be charged $1,110.00 for the extension of time within the third month necessary to make the Notice of Appeal filed December 14, 2010, timely.

The application file is being forwarded Technology Center 1700, GAU 1742, for further processing.

Further inquires regarding this decision may be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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THOMAS J. FINN, ESQ.
RAYTHEON COMPANY
2000 E. EL SEGUNDO BLVD.
P.O. BOX902
EL SEGUNDO, CA 90245-0902

MAILED

JAN 18 2011

OFFICE OF PETITIONS

In re Application of :
Shiau et al. :
Application No. 11/281,804 : ON PETITION
Filed: November 17, 2005 :
Attorney Docket No. PD-04@236 :

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 **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 October 13, 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 14, 2010. A Notice of Abandonment was mailed June 17, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) including the fee of $810 and the submission required by 37 CFR 1.114, (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. 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) 272-6059.

This application is being referred to Technology Center AU 3641 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.

Alicia Kelley
Petitions Examiner
Office of Petitions

cc: WILLIAM BENMAN
BENMAN BROWN AND WILLIAMS
2049 CENTURY PARK E STE 2740
LOS ANGELES, CA 90067

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KONRAD RAYNES & VICTOR, LLP
ATTN: IBM54
315 SOUTH BEVERLY DRIVE, SUITE 210
BEVERLY HILLS CA 90212

MAILED

SEP 28 2010

OFFICE OF PETITIONS

In re Application of :
Charles Kinston Williams :
Application No. 11/281,885 : ON PETITION
Filed: November 18, 2005 :
Attorney Docket No. **016325-003731** :

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the final Office action mailed, July 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 October 9, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuing application under 37 CFR 1.53(b); (2) the petition fee of $1,620; and (3) a proper statement of unintentional delay.

This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of continuing Application No. 12/683,176.

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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AT&T LEGAL DEPARTMENT - ROEBUCK
ATTN: PATENT DOCKETING
ONE AT&T WAY,
ROOM 2A-207
BEDMINSTER NJ 07921

MAILED

NOV 21 2011

OFFICE OF PETITIONS

In re Application of	:	
Brian B. WILSON et al.	:	
Application No. 11/281,995	:	DECISION ON PETITION
Filed: November 17, 2005	:	
Attorney Docket No. IP2153 (SBC 2003)	:	

This is a decision on the petition, filed October 11, 2011, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee's name on the Fee(s) Transmittal form PTOL-85(b) so that the Letters Patent will issue to the assignee.

The request is **DISMISSED**.

Petitioner states that the correct assignee's name is "AT&T Intellectual Property I, LP" 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 "AT&T Intellectual Property I, LP".

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

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

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

The request under 37 CFR 3.81(b) was not accompanied by a request for a **certificate of correction form PTO/SB/44** as required by 3.81(b). *See also* MPEP 1481.01. As petitioner has failed to comply with the provisions of 37 CFR 3.81(b), the request cannot be granted at this time.

A review of Office database assignment records reflects that an assignment to "AT&T Intellectual Property I, LP" has been recorded. Therefore, upon submission of the required **certificate of correction form PTO/SB/44**, 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 "AT&T Intellectual Property I, LP" was the assignee of record at the time of issuance of the application into a patent. *Note also* 35 U.S.C. § 152.

In view of the above and **after issuance of this application into a patent, the Certificates of Correction Branch is instructed to issue a certificate of correction upon submission by petitioner of a request for a certificate of correction which sets forth "AT&T Intellectual Property I, LP", as the assignee**. *No certificate of correction will be issued which sets forth an assignee other than the assignee set forth in this request. A copy of this decision* ***must*** *accompany the request for a Certificate of Correction.*

No further renewed request under 37 CFR 3.81(b) is necessary for consideration by the Office of Petitions for issuance of a certificate of correction in the name of the assignee set forth in this request, since this decision operates as an instruction to the Certificates of Correction Branch to issue the requested certificate of correction.

Inquiries concerning this decision should be directed to Michelle R. Eason at (571) 272-4231. Any questions concerning issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

Thurman K. Page
Petitions Examiner
Office of Petitions

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MORRISON & FOERSTER LLP
425 MARKET STREET
SAN FRANCISCO CA 94105-2482

MAILED

APR 21 2011

OFFICE OF PETITIONS

In re Application of :

RIZZIERI, David A. et al. :
Application No. 11/282,115 : DECISION ON PETITION
Filed: November 16, 2005 : TO WITHDRAW
Attorney Docket No. **602662000600** : 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 05, 2011.

The request is **APPROVED.**

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

The request was signed by Michael Ward on behalf of all attorneys of record who are associated with customer No. 20872. All attorneys/agents associated with the Customer Number 20872 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address indicated below. There is an outstanding Office action mailed January 05, 2011 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: **DUKE UNIVERSITY**
2812 ERWIN RD. SUITE 306
DURHAM NC 27705

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SHERIDAN ROSS PC
1560 BROADWAY
SUITE 1200
DENVER CO 80202

MAILED

SEP 15 2011

OFFICE OF PETITIONS

In re Patent No. 7,334,712
Issue Date: February 26, 2008
Application No. 11/282,159
Filed: November 17, 2005
Attorney Docket No. 2417-630

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed August 25, 2011.

The petition is **DISMISSED**.

Any request for reconsideration of this request must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are not permitted.

The request 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.

Although an assignment has been recorded in the Office showing that Case Logic, inc. is the assignee of record, a review of the record shows that a statement pursuant to 37 CFR 3.73 (b) as required by 37 CFR 3.71 has not been provided.

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-3215.

Charlema Grant
Petitions Attorney
Office of Petitions

Enclosure: Statement under 37 CFR 3.73(b)

Cc: Bill Gregorak
Thule Organization Solutions, Inc.
6303 Dry Creek Parkway
Longmont, Colorado 80503

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

MAILED

JAN 10 2011

OFFICE OF PETITIONS

In re Application of :
John St. Cyr et al :
Application No. 11/282,276 : NOTICE
Filed: November 18, 2005 :
Attorney Docket No. 37272-522001US

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**.

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

Inquiries related to this communication should be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Mintz Levin Cohn Ferris Glovsky & Popeo, P.C.
The Chrysler Center
666 3rd Ave., 24th Fl.
New York, NY 10017

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KATEEVA, INC.
1430 OBRIEN DRIVE,
SUITE A
MENLO PARK CA 94025

MAILED
NOV 02 2011
OFFICE OF PETITIONS

Applicant: Vladimir Bulovic, et al.
Appl. No.: 11/282,472
Filing Date: November 21, 2005
Title: METHOD AND APPARATUS FOR DEPOSITING LED ORGANIC FILM
Attorney Docket No.: MIT-0900
Pub. No.: US 20060115585A1
Pub. Date: June 1, 2006

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on April 8, 2011, for the above-identified application.

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains a material error on the front page of the publication wherein the inventor's last name should have been printed as "Chen" instead of as "Chem".

37 CFR 1.221 (b) is applicable "only when the Office makes a material mistake which is apparent from Office records.... Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. [1]

The request for corrected publication received on April 8, 2011, was not timely filed under 37 CFR 1.221(b).

The error on the front page of the publication wherein the spelling of the inventor's last name "Chem" is **not** an Office error. The declaration submitted on February 7, 2006 for the above-identified application indicates the spelling of the inventor's last name as "Chem" instead of "Chen". Also, the above is not a material Office error under 37 CFR 1.221(b). The error of the inventor's name does not affect the understanding of the application. The mistake does not

[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239, Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

Applicants are encouraged to use and submit an **eADS** (PTO/SB/14) as an EFS-Web Fillable Form, rather than a scanned PDF image, to benefit from having the data loaded directly into USPTO electronic systems. For questions contact the Patent EBC (Electronic Business Center):
Telephone: 1-866-217-9197 (toll-free) or E-mail: ebc@uspto.gov
571-272-4100 (local)

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

A guide for filing a request for a Pre-Grant Publication, such as a request for republication, may be found on the link below:

http://www.uspto.gov/patents/process/file/efs/guidance/index.jsp

http://www.uspto.gov/ebc/portal/efs/pgpub_quickstart.pdf

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system, as a "Pre-Grant Publication."

Inquiries relating to this matter may be directed to Karen Creasy at (571) 272-3208.

/Christopher Bottorff/

Christopher Bottorff
Petitions Examiner
Office of Petitions

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1430 O'BRIEN DRIVE,
SUITE A
MENLO PARK CA 94025

MAILED

JAN 18 2012

OFFICE OF PETITIONS

In re Application of :
Vladimir Bulovic, et al :
Application No. 11/282,472 : DECISION ON PETITION
Filed: November 21, 2005 :
Attorney Docket No. MIT-0900 :

This is a decision on the petitions under 37 CFR 1.182, filed October 6, 2011 , to change the name of inventor "Valerie Leblanc" to –Valerie Gassend --.

The petition is **GRANTED**.

Office records have been updated to reflect the inventor's change of name. A corrected Filing Receipt, which reflects the inventor's change of name, accompanies this decision on petition.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208.

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

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/282,472	11/21/2005	1717	3180	MIT-0900	49	6

CONFIRMATION NO. 3000

CORRECTED FILING RECEIPT

13649
Kateeva, Inc.
1430 OBrien Drive,
Suite A
Menlo Park, CA 94025

OC00000052033892

Date Mailed: 01/18/2012

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

Applicant(s)

Vladimir Bulovic, Lexington, MA;
Marc A. Baldo, Cambridge, MA;
Martin A. Schmidt, Reading, MA;
Valerie Gassend, Cambridge, MA;
Jianglong Chen, Cambridge, MA;

Power of Attorney: The patent practitioners associated with Customer Number 13649

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/629,312 11/19/2004

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: 12/23/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/282,472**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

METHOD AND APPARATUS FOR DEPOSITING LED ORGANIC FILM

Preliminary Class

118

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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FOLEY & LARDNER LLP
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON WI 53701-1497

MAILED

JAN 23 2012

OFFICE OF PETITIONS

In re Application :
Yibei Ling et al. :
Application No. 11/282,509 : DECISION ON APPLICATION
Filed: November 18, 2005 : FOR PATENT TERM ADJUSTMENT
Attorney Docket No. 088245-7211 :

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT FOR PATENT APPLICATION UNDER 37 C.F.R. §1.705(b) filed January 17, 2012. Applicant requests that the determination of patent term adjustment be corrected from 78 to 1312 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 recent court decision in light of the Court of Appeals for the Federal Circuit's decision in *Wyeth v. Kappos*, 2009-1120 (Fed. Cir. 1-7-2010).

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

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentees are entitled to for Office failure to issue the patent within three years. See 37 CFR 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under 37 CFR 1.702(a)(4) or applicant delay under 37 CFR 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the patent term adjustment relating to those provisions until the patent has issued.

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

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

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

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

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

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

[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.

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FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER, LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

MAILED

SEP 30 2011

OFFICE OF PETITIONS

In re Application of
Frampton Erroll Ellis
Application No. 11/282,665
Filed: November 21, 2005
Attorney Docket No. 05884.0046-00000

: DECISION ON PETITION
: TO MAKE SPECIAL UNDER
: 37 CFR 1.102(c)(1)

This is a decision on the petition under 37 CFR 1.102(c)(1), filed September 23, 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) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required.

The instant petition includes a statement from sole inventor, Frampton Erroll Ellis, that he is 65 years of age or older. Accordingly, the above-identified application has been accorded "special" status.

This application file is being referred to Technology Center Art Unit 3765 for further processing in accordance with this decision.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226. All other inquiries concerning the processing of the application should be addressed to the Office of Patent Application Processing at (571) 272-4000.

Andrea Smith
Petitions Examiner
Office of Petitions

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FISH & RICHARDSON PC
PO BOX 1022
MINNEAPOLIS MN 55440-1022

MAILED
JUL 15 2011
OFFICE OF PETITIONS

In re Patent No. 7,774,753	:	DECISION ON APPLICATION
Reilly et al.	:	FOR RECONSIDERATION OF
Issue Date: Aug. 10, 2010	:	PATENT TERM ADJUSTMENT
Application No. 11/282,916	:	AND NOTICE OF INTENT TO
Filing Date: Nov. 18, 2005	:	ISSUE CERTIFICATE OF
Attorney Docket No. 07844-076001	:	CORRECTION

This is a decision on the APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d), filed on October 8, 2010, requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand three hundred (1300) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein.** The term of the above-identified patent is extended or adjusted by **one thousand two hundred two (1202) days.**

Patentee disputes the period of time excluded from B delay for appellate review. Patentee's argument has been considered, but not found persuasive.

37 CFR 1.703(b) indicates that the period of adjustment under 37 CFR 1.702(b) ("over three year period") is the number of days, if any, in the period beginning on the day after the date that is three years after the actual filing date of the application and ending on the date a patent was issued. 35 U.S.C. 154(b)(1)(B). In this instance, the "over three year period" is 630 days, beginning on November 19, 2008, the date after the date that is three years after the filing date of the application and ending on August 10, 2010, the date the patent issued.

However, 37 CFR 1.703(b) also sets forth the limitations on patent term adjustment specified in 35 U.S.C. 154(b)(1)(B)(i) and (ii). Specifically, the period consumed by appellate review, whether successful or not, is excluded from the calculation of B delay. See 35 U.S.C. 154(b)(1)(B)(ii). An appeal to the Board of Patent Appeals and Interferences commences with the filing of a notice of appeal. See 35 U.S.C. 134(a). Generally, an appeal to the Board of Patent Appeals and Interferences ends with either 1) a Board decision, 2) the examiner reopening prosecution and issuing another Office action, or 3) the applicant filing a request to withdraw the appeal and reopen prosecution (e.g. the filing of a request for continued examination). In this instance the period consumed by appellate review is 169 days, beginning on October 9, 2009, the date of filing of the notice of appeal and ending on March 26, 2010, the subsequent date of the mailing of the notice of allowance. Thus, B delay is 461 (630 - 169) days (not 462 days).

Accordingly, the patent term adjustment is 1202 days (741 days of A delay + 461 days of B delay - 0 days of overlap - 0 days of applicant delay).

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

It is noted that the Office issued a Notice of proposed rulemaking entitled *Revision of Patent Term Extension and Adjustment Provisions Relating to Appellate Review and Information Disclosure Statements*, 76 FR 18990 (April 6, 2011). To the extent that the final rule on *Revision of Patent Term Extension and Adjustment Provisions Relating to Appellate Review* revises the interpretation of appellate review applied in this decision, Patentee is given **one (1) month or thirty (30) days**, whichever is longer, from the date of the final rule to file a

request for reconsideration. No extensions of time will be granted under § 1.136.

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

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

This matter is being referred to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand two hundred two (1202) 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 : 7,774,753 B1

DATED : **Aug. 10, 2010** **DRAFT**

INVENTOR(S) : Reilly 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 1203 days.

Delete the phrase "by 1203 days" and insert – by 1202 days--

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MINNEAPOLIS MN 55440-1022

MAILED
AUG 26 2011
OFFICE OF PETITIONS

In re Patent No. 7,774,753	:	DECISION ON APPLICATION
Reilly et al.	:	FOR RECONSIDERATION OF
Issue Date: Aug. 10, 2010	:	PATENT TERM ADJUSTMENT
Application No. 11/282,916	:	
Filing Date: Nov. 18, 2005	:	
Attorney Docket No. 07844-0768001	:	

This is a decision on the RESPONSE TO DECISION ON APPLICATION FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT AND NOTICE OF INTENT TO ISSUE CERTIFICATE OF CORRECTION, filed on August 15, 2011, which is treated as a renewed petition under 37 C.F.R. § 1.705(d), requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand three hundred (1300) days.

The petition to correct the patent term adjustment is **DISMISSED** with respect to making any change in the patent term adjustment determination under 35 U.S.C. § 154(b) of one thousand two hundred two (1202) days.

Patentees again dispute the period of time excluded from B delay for appellate review. Patentees' argument has been considered, but not found persuasive.

37 CFR 1.703(b) indicates that the period of adjustment under 37 CFR 1.702(b) ("over three year period") is the number of days, if any, in the period beginning on the day after the date that is three years after the actual filing date of the application and ending on the date a patent was issued. 35 U.S.C. 154(b)(1)(B). In this instance, the "over three year period" is 630 days, beginning on November 19, 2008, the date after the date that is three years after the filing date of the

application and ending on August 10, 2010, the date the patent issued.

However, 37 CFR 1.703(b) also sets forth the limitations on patent term adjustment specified in 35 U.S.C. '154(b)(1)(B)(i) and (ii). Specifically, the period consumed by appellate review, whether successful or not, is excluded from the calculation of B delay. See 35 U.S.C. 154(b)(1)(B)(ii). An appeal to the Board of Patent Appeals and Interferences commences with the filing of a notice of appeal. See 35 U.S.C. 134(a). Generally, an appeal to the Board of Patent Appeals and Interferences ends with either 1) a Board decision, 2) the examiner reopening prosecution and issuing another Office action, or 3) the applicant filing a request to withdraw the appeal and reopen prosecution (e.g. the filing of a request for continued examination). In this instance the period consumed by appellate review is 169 days, beginning on October 9, 2009, the date of filing of the notice of appeal and ending on March 26, 2010, the subsequent date of the mailing of the notice of allowance. Thus, B delay is 461 (630 - 169) days.

Accordingly, the patent term adjustment is 1202 days (741 days of A delay + 461 days of B delay - 0 days of overlap - 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, Patentee is given **one (1) month or thirty (30) days**, whichever is longer, from the date of the final rule to file a request for reconsideration. No extensions of time will be granted under § 1.136.

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

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

Accordingly, no change will be made to the patent term adjustment.

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

DEC 22 2010

OFFICE OF PETITIONS

In re Application of :
Tinkler et al. :
Application Number: 11/282921 : ON PETITION
Filing Date: 11/18/2005 :
Attorney Docket Number: AIP-10002/33 :

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

The petition is **GRANTED**.

This application became abandoned on January 7, 2009, for failure to timely submit a reply to the non-final Office action mailed on October 6, 2008, 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 April 30, 2009.

Receipt of the amendment filed with the subject petition is acknowledged.

The application is referred to Technology Center Art Unit 2427 for further processing.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 9/6/2011

TO SPE OF : ART UNIT 2117

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/282938 Patent No.: 7434131 B2

CofC mailroom date: 8/23/2011

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Note: _____

_____

Virginia Tolbert

Certificates of Correction Branch

(571) 272-0460

Thank You For Your Assistance

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

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

Comments: All changes apply to correct typographical nature and minor character.

D.T

_____ 2117

SPE **Art Unit**

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

MAILED

AUG 0 9 2011

OFFICE OF PETITIONS

In re Application of :
Ni, et al. :
Application No. 11/282,963 : ON PETITION
Filed: November 18, 2005 :
Attorney Docket No. GUID.177PA :

This is in response to petition to revive an unintentionally abandoned application under 37 CFR 1.137(b), filed July 20, 2011.

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 November 15, 2010, which set a shortened statutory period for reply of three months. No reply having been received, the application became abandoned o February 16, 2011. The Office mailed a Notice of Abandonment on May 24, 2011.

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

The application is being forwarded to Group Art Unit 3766 for consideration of the RCE, filed July 20, 2011.

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

DATE : April 21, 2010

TO SPE OF : ART UNIT 2161
SUBJECT : Request for Certificate of Correction for Appl. No 11/282977/ patent 7499951

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Magdalene Talley

Certificates of Correction Branch
571-272-0423 _____

Thank You For Your Assistance

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

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

Comments: _____

(APU MOFIZ) 2161

SPE **Art Unit**

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WHITEFORD, TAYLOR & PRESTON, LLP
ATTN: GREGORY M STONE
SEVEN SAINT PAUL STREET
BALTIMORE MD 21202-1626

MAILED

DEC 28 2010

OFFICE OF PETITIONS

In re Application of :
Rodney Derifield :
Application No. 11/283,155 : NOTICE
Patent No. 7,225,632 :
Filed: November 18, 2005 :
Attorney Docket No. **084459/00001**

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

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

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

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

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

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions

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

MAILED

SEP 20 2010

OFFICE OF PETITIONS

In re Application of :
Francis et al. :
Application No. 11/283,168 :
Filed: November 17, 2005 : ON APPLICATION FOR
Attorney Docket No. 24299-504 : PATENT TERM ADJUSTMENT
CIP2CONCIP1 :
Title: METHOD FOR DIAGNOSING :
MYOCARDIAL INFARCTION :

This is in response to the "APPLICATION FOR ADJUSTMENT OF PATENT TERM ADJUSTMENT UNDER 37 CFR § 1.705(b)" filed July 29, 2010. Applicants submit that the correct patent term adjustment to be indicated on the patent is one hundred twenty-six (126) days, not zero (0) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

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

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

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

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

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

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

---

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

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

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

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

Anthony Knight
Director
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
www.uspto.gov

SAP AG
3410 HILLVIEW AVENUE
PALO ALTO, CA 94304

Mail Date: 01/11/2011

Applicant	: Stefan O. Bresch	: DECISION ON REQUEST FOR
Patent Number	: 7599908	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/283,208	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/18/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **248** 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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AUG 16 2010

OFFICE OF PETITIONS

CLARK HILL PLC
150 NORTH MICHIGAN AVENUE
SUITE 2700
CHICAGO IL 60601

In re Application of :
Hemanshu BHATT, et al :
Application No. 11/283,219 : ON PETITION
Filed: November 18, 2005 :
Attorney Docket No. 05-0770 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 24, 2010, to revive the above-identified application.

The petition is **DISMISSED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of October 27, 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 28, 2010.

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

With respect to item (3): The statement of unintentional delay under 37 CFR 1.137(b) cannot be accepted because the statement is not signed. Accordingly, the petition is considered to not contain a proper statement of unintentional delay.

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

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

The power of attorney previously submitted is acknowledged, however, since there are more than ten attorneys indicated, the power of attorney has not been entered. See 37 CFR 1.32(c).

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

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

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

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

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

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

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

cc: JAMES R. FOLEY
105 WEST ADAMS ST., 36TH FLOOR
CHICAGO, IL 60603

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CLARK HILL PLC
150 NORTH MICHIGAN AVENUE
SUITE 2700
CHICAGO IL 60601

MAILED

AUG 3 1 2010

OFFICE OF PETITIONS

In re Application of :
Hemanshu BHATT, et al :
Application No. 11/283,219 : ON PETITION
Filed: November 18, 2005 :
Attorney Docket No. 05-0770 :

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

The petition is **GRANTED**.

The 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 27, 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 28, 2010. A Notice of Abandonment was mailed on June 21, 2010.

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

In reference to petitioner's assertion that power of attorney was given previously, the Office acknowledges the Power of Attorney dated November 18, 2005, however, petitioner's attention should be directed to 37 CFR 1.32(c) (3), which states "the Office will not recognize more than ten patent practitioners named in a power of attorney." In this regard, since the previously

submitted power of attorney was not proper in accordance with the requirements of 37 CFR 1.32(c) (3), it has not been recorded.

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

All other inquiries should be directed to the Technology Center at (571) 272-2800.

This application is being referred to Technology Center AU 2814 for processing of the RCE and submission required by 37 CFR 1.114.

/dcg/
Diane C. Goodwyn
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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MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH NC 27627

MAILED

OCT 04 2010

OFFICE OF PETITIONS

In re Application of	:	
Joseph Popovich, Jr.	:	
Application No. 11/283,327	:	DECISION GRANTING PETITION
Filed: November 18, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 9335-39	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, October 1, 2010 to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on September 10, 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 3651 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

[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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SILICON VALLEY CENTER
801 CALIFORNIA ST.
MOUNTAIN VIEW CA 94041

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JUN 21 2011

OFFICE OF PETITIONS

In re Application of :
Verstak, et al. :
Application No. 11/283,328 : ON PETITION
Filed: November 18, 2005 :
Attorney Docket No. 24207-10545 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 9, 2011, to revive the above-identified application.

The petition is GRANTED.

The application became abandoned March 2, 2011 for failure to timely submit a proper reply to the final Office action mailed December 1, 2010. No petition for extension of time for reply was filed. Notice of Abandonment was mailed June 14, 2011.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by: (1) the required reply to the outstanding Office action or notice, unless previously filed; (2) the petition fee as set forth in 37 C.F.R. § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee set forth in 37 C.F.R. § 1.20(d)) required pursuant to 37 C.F.R. § 1.137(c).

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

This application is being referred to Technology Center AU 2176 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

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

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

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Alexandria, VA 22313-1450
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MARK LEVY
HINMAN, HOWARD & KATTELL, LLP
80 EXCHANGE STREET
P.O. BOX 5250
BINGHAMTON, NY 13901

MAILED

JUL 29 2011

OFFICE OF PETITIONS

In re Application of :
Andy Eugene Maslin, et al. :
Application No. 11/283,425 : ON PETITION
Filed: November 18, 2005 :
Attorney Docket No.: H-684 :
:

This is a decision on the petition under 37 CFR 1.137(b), filed July 14, 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 20, 2009, which set a shortened statutory period for reply of three (3) months. A Notice of Abandonment was subsequently mailed on April 20, 2010. On July 14, 2011, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) under 37 CFR 1.114, including the 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 3644 for further processing of the RCE under 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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AUG 16 2010

OFFICE OF PETITIONS

THE SMALL PATENT LAW GROUP LLP
225 S. MERAMEC, STE. 725T
ST. LOUIS, MO 63105

In re Patent No. 7,508,608 :
Issue Date: March 24, 2009 :
Application No. 11/283,518 : LETTER
Filed: November 17, 2005 :
Attorney Docket No. IP-0007-US (830-0007US)

This is in response to the paper filed June 17, 2010, which is being treated under 37 CFR 1.28(b) requesting that status as a Small Entity be removed.

In accordance with the June 17, 2010 request, status as a Small Entity has been removed.

Inquiries related to this communication should be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

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

MARGARET ANDERSON
106 E. 6TH STREET, SUITE 900
AUSTIN TX 78701

MAILED

MAR 14 2011

OFFICE OF PETITIONS

In re Application of	:	
Jung et al.	:	DECISION ON PETITION
Application No. 11/283,548	:	TO WITHDRAW
Filed: November 17, 2005	:	FROM RECORD
Attorney Docket No. QQ1-0070US	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 26, 2011.

The request is **NOT APPROVED**.

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

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

According to a review of current USPTO records petitioner has not requested the address be changed to a properly recorded assignee or the first listed inventor. The Customer Number 55922 is neither the first named inventor nor the assignee who properly became of record under 37 CFR 3.71 As such, all future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Further, the address given on the petition differs from the address of record. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Currently, there is no outstanding Office action that requires a reply.

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

Joan Olszewski
Petitions Examiner
Office of Petitions

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

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1100 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

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SEP 21 2011

OFFICE OF PETITIONS

In re Application of	:	
Dang, et al.	:	
Application No. 11/284,109	:	ON APPLICATION FOR
Filed: November 22, 2005	:	PATENT TERM ADJUSTMENT
Atty Docket No. 2286.0030001/BJD/JKM	:	

This is in response to the "Request for Reconsideration of Patent Term Adjustment Determination 37 CFR 1.705(b)" filed September 19, 2011. Applicants submit that the patent term adjustment is nine hundred and twenty-six (926) days, not five hundred eighty-six (586) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent and overlap considerations.

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

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

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

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

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

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

---

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

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

It is further noted that a Request for Continued Examination (RCE) was filed in this application on November 13, 2009.

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

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

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

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

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Attorney Advisor
Office of Petitions

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MARTIN D. MOYNIHAN d/b/a PRTSI, INC.
P.O. BOX 16446
ARLINGTON VA 22215

MAILED

FEB 14 2011

OFFICE OF PETITIONS

In re Application of :
Ronen, et al. :
Application No. 11/284,236 :
Filed: November 22, 2005 :
Attorney Docket No. 30531 :

NOTICE

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

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

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

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

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

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
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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Bib Data Sheet

CONFIRMATION NO. 6227

SERIAL NUMBER	FILING OR 371(c) DATE	CLASS	GROUP ART UNIT	ATTORNEY DOCKET NO.
11/284,236	11/22/2005 RULE	800	1638	30531

APPLICANTS

Gil Ronen, Emeq-Hefer, ISRAEL;
Ezekiel Golan, Tel Aviv, ISRAEL;
Hagai Karchi, Doar-Na Emek Soreq, ISRAEL;
Rafael Meissner, Rechovot, ISRAEL;

**** CONTINUING DATA ***************************

This application is a CIP of PCT/IL04/00431 05/20/2004
which claims benefit of 60/472,433 05/22/2003
This application 11/284,236
claims benefit of 60/707,957 08/15/2005

**** FOREIGN APPLICATIONS *********************

IF REQUIRED, FOREIGN FILING LICENSE GRANTED
** 02/24/2006

Foreign Priority claimed	STATE OR COUNTRY	SHEETS DRAWING	TOTAL CLAIMS	INDEPENDENT CLAIMS
☐ yes ☐ no	ISRAEL	9	36	5
35 USC 119 (a-d) conditions met ☐ yes ☐ no ☐ Met after Allowance				
Verified and Acknowledged Examiner's Signature Initials				

ADDRESS
67801

TITLE

METHODS OF INCREASING ABIOTIC STRESS TOLERANCE AND/OR BIOMASS IN PLANTS

FILING FEE RECEIVED		
1965	FEES: Authority has been given in Paper No. _____ to charge/credit DEPOSIT ACCOUNT No. _____ for following:	☐ All Fees ☐ 1.16 Fees (Filing) ☐ 1.17 Fees (Processing Ext. of time) ☐ 1.18 Fees (Issue) ☐ Other _____ ☐ Credit

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HENKEL CORPORATION
10 FINDERNE AVENUE, SUITE B
BRIDGEWATER NJ 08807

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DEC 06 2010

OFFICE OF PETITIONS

In re Application of
Qiwen HAN et al
Application No. 11/284,241
Filed: November 21, 2005
Attorney Docket No. 3180.BDM

DECISION ON PETITION

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

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue and publication fees on or before October 12, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed July 12, 2010, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on October 13, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1510 and publication fee of $300; (2) the petition fee of $1620; and (3) a proper statement of unintentional delay.

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

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

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

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OCT 08 2010

OFFICE OF PETITIONS

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

In re Application of :
Stefan Dutzmann, et al. :
Application No. 11/284,246 : DECISION GRANTING PETITION
Filed: November 21, 2005 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. MO4998D4/LEA :
30,224D4

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on September 7, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 1616 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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

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

Issue Classification	Application/Control No.	Applicant(s)/Patent under Reexamination	
	11/284,307	GRENIER ET AL.	
	Examiner	Art Unit	
	FRANK W. LU	1634	

ISSUE CLASSIFICATION

ORIGINAL			CROSS REFERENCE(S)							
CLASS	SUBCLASS	CLASS	SUBCLASS (ONE SUBCLASS PER BLOCK)							
435	91.2	435	6	91.1						
INTERNATIONAL CLASSIFICATION		536	23.1	24.3	24.33	25.3				
C 12 P	19/34									
C 12 Q	1/68									
C 07 H	21/02									
C 07 H	21/04									
C 07 H	21/00									

(Assistant Examiner) (Date)	/Frank W Lu/ 9/27/2010 (Primary Examiner) (Date)	Total Claims Allowed: 13	
(Legal Instruments Examiner) (Date)		O.G. Print Claim(s): 1	O.G. Print Fig.: None

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

Final	Original	Final	Original	Final	Original	Final	Original	Final	Original	Final	Original	Final	Original
	1		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
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	14		44		74		104		134		164		194
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	24	7	54		84		114		144		174		204
	25	8	55		85		115		145		175		205
	26	9	56		86		116		146		176		206
	27	10	57		87		117		147		177		207
	28	11	58		88		118		148		178		208
	29	12	59		89		119		149		179		209
	30	13	60		90		120		150		180		210

UNITED STATES 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

JUN 22 2011

OFFICE OF PETITIONS

In re Application of :
DEBOER, LUC :
Application No. 11/284,334 : ON PETITION
Filed: 11/21/2005 :
Attorney Docket No. 44379.23 :

This is in response to the petition under 37 CFR 1.137(b), filed June 13, 2011, to revive the above-identified application.

The present petition contains the typed name of the practitioner; however, it lacks the practitioner's signature in compliance with 37 CFR 1.4(d). The Office notes that each piece of correspondence filed in an application, patent file or other proceeding in the USPTO, which requires a person's signature, must bear one of three types of signatures: (A) handwritten signature; (B) "S-signature;" or (C) Office Electronic Filing System (EFS) character coded signature. See 37 CFR 1.4(d).

Although the certificate of mailing, which appears on the second page of the petition bears the signature of the practitioner, two signatures are required, one for the petition and one for the certification. See MPEP 512(A). The Office cannot accept the petition under 37 CFR 1.137(b) because the practitioner only signed the certificate of mailing but failed to sign the petition as required by 37 CFR 1.4(d). Consequently, the present petition will not be addressed on the merits until petitioner files a "renewed" petition under 37 CFR 1.137(b) signed by an appropriate person in compliance with 37 CFR 1.4. No addition fee is required for filing a "renewed" petition.

The "renewed" petition under 37 CFR 1.137(b) 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 request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)."

Further correspondence with respect to this matter should be addressed as follows and to the attention of Senior Petitions Attorney Christina Tartera Donnell:

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

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

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

Correspondence may also be submitted electronically via EFS-Web.

Telephone inquiries 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

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

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

MAILED
JUL 05 2011
OFFICE OF PETITIONS

In re Application of :
DEBOER, LUC :
Application No. 11/284,334 : ON PETITION
Filed: 11/21/2005 :
Attorney Docket No. 44379.23 :

This is in response to the petition under 37 CFR 1.137(b), filed June 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 10, 2011, as required by the Notice of Allowance and Fee(s) Due mailed March 10, 2011. A Notice of Abandonment was mailed on June 22, 2011.

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

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

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

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

THORPE NORTH & WESTERN, LLP.
P.O. Box 1219
SANDY UT 84091-1219

MAILED
DEC 23 2011
OFFICE OF PETITIONS

In re Application of :
Ensign et al. :
Application No. 11/284438 :
Filing or 371(c) Date: 11/21/2005 :
Title of Invention: :
ROD COUPLING ASSEMBLIES : ON PETITION

This is a decision on the Petition to Revive an Unintentionally Abandoned Application Under 37 CFR 1.137(b), filed December 5, 2011.

This Petition is hereby **dismissed**.

Any further petition to revive the above-identified application 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 "Request for Reconsideration of Petition under [insert the applicable code section]". This is not final agency action within the meaning of 5 U.S.C. § 704.

Background

The above-identified application became abandoned for failure to timely reply to the non-final Office action, mailed October 22, 2009. The Office action set a three (3) month period for reply. Extensions of time under 37 CFR 1.136(a) were available. No complete and proper reply having been received, the application became abandoned on January 23, 2010. A Notice of Abandonment was mailed April 29, 2010.

The present petition

Petitioner, one of three inventors, files the present petition and an amendment in reply to the Office action.

Applicable law, Rules and MPEP

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).

Analysis

As to item (3), the present petition is not signed by all inventors. Petitioner herein may state 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 herein was not solely responsible for prosecuting the application. Office recirds reveal that during the period of abandonment, Allspine, LLC was the assignee of the present application, and that petitioner herein has not demonstrated that he was/is authorized to act on behalf of Allspine, LLC.

Petitioner has made 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; however, the person signing the statement of unintentional delay was not responsible for prosecuting the application during the period of abandonment, and is therefore not in a position to state that the entire delay in filing the required reply was unintentional.

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.

Conclusion

Because the petition has not been properly signed, the petition is dismissed. A properly executed petition, signed by a proper party as listed above in 37 CFR 1.33, is required before the merits of the petition may be considered.

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

By mail:	Director for Patents PO Box 1450 Alexandria, VA 22313-1450
By FAX:	(571) 273-8300 Attn: Office of Petitions
By hand:	Customer Service Window Randolph Building 401 Dulany Street Alexandria, VA 22314

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

/DLW/

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

THORPE NORTH & WESTERN, LLP.
P.O. Box 1219
SANDY UT 84091-1219

MAILED
JAN 30 2012
OFFICE OF PETITIONS

In re Application of :
Ensign et al. :
Application No. 11/284438 :
Filing or 371(c) Date: 11/21/2005 :
Title of Invention: :
ROD COUPLING ASSEMBLIES : ON PETITION

This is a decision on the renewed Petition to Revive an Unintentionally Abandoned Application Under 37 CFR 1.137(b), filed January 17, 2011.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely reply to the non-final Office action, mailed October 22, 2009. The Office action set a three (3) month period for reply. Extensions of time under 37 CFR 1.136(a) were available. No complete and proper reply having been received, the application became abandoned on January 23, 2010. A Notice of Abandonment was mailed April 29, 2010.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that the petition includes (1) the reply in the form of an Amendment (previously filed on December 5, 2011); (2) the petition fee (previously filed on December 5, 2011); and (3) the required statement of unintentional delay. Accordingly, the reply is accepted as having been unintentionally delayed.

This application is being referred to Technology Center Art Unit 3733 for processing of the response to the Office action filed with the petition in the normal course of business.

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

/DLW/

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

MAILED

JUL 15 2011

OFFICE OF PETITIONS

FULBRIGHT & JAWORSKI, LLP
666 FIFTH AVE
NEW YORK NY 10103-3198

In re Application of	:	
Krempel-Hesse et al.	:	
Application No. 11/284,439	:	DECISION ON RENEWED PETITION
Filed: November 21, 2005	:	PURSUANT TO
Attorney Docket No.: AFILM-202	:	37 C.F.R. § 1.181(A)
Title: MAGNETRON SPUTTER CATHODE	:	

This is a decision on the renewed petition filed January 21, 2011, pursuant to 37 C.F.R. § 1.181(a), requesting that the holding of abandonment in the above-identified application be withdrawn.

This renewed petition pursuant to 37 C.F.R. § 1.181(a) is **DISMISSED.**

BACKGROUND

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed March 11, 2009, which set a shortened statutory period for reply of three months. No response was received, and no extensions of time under the provisions of 37 C.F.R. § 1.136(a) were requested. Accordingly, the above-identified application became abandoned on June 12, 2009. A notice of abandonment was mailed on September 25, 2009.

RELEVANT PORTION OF THE C.F.R.

Section 711.03(c)(I)(A) of the MPEP sets forth, *in pertinent part*:

> To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. **The showing required to establish nonreceipt of an Office communication must include a statement from the**

> **practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable** (emphasis added).

PROCEDURAL HISTORY AND ANALYSIS

An original petition pursuant to 37 C.F.R. § 1.181 was filed on November 4, 2009, where it was asserted that the non-final Office action was not received at the correspondence address of record,[1] and that a search of the "file and docket records" indicates the same.[2] Petitioner further included a copy of the individual docket report that is associated with this particular application.

The original petition pursuant to 37 C.F.R. § 1.181 was dismissed via the mailing of a decision on December 22, 2009,[3] which indicated, *in pertinent part*:

> Petitioner's assertion of non-receipt has not been adequately supported, as will be now pointed out.
>
> First, Petitioner has not provided a statement describing the system used for recording an Office communication received at the correspondence address of record with the USPTO.
>
> Second, Petitioner has not established that the docketing system is sufficiently reliable.
>
> On renewed petition, Petitioner should provide a statement which explains how the docketing system which his firm utilizes serves to ensure that the correspondence recorded therein is responded to in a timely manner (emphasis added).
>
> Third, Petitioner has not provided a copy of the master docket for the firm, or stated that no such master docket exists and submitted other forms of evidence listed in the portion of the MPEP reproduced above (other than the individual docket report that is associated with this particular application).
>
> Decision on original petition, page 4.

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1 Original petition, page 1.
2 Crawford declaration of facts submitted with original petition, paragraph 4.
3 Although this renewed petition was submitted subsequent to the expiration of the two-month period for response that was set by the decision on the original petition, this renewed petition will not be dismissed as untimely filed, due to the fact that a review of the electronic record shows that an irregularity in the mailing occurred; the mailing was returned to the Office on December 31, 2009, and marked "RETURN TO SENDER NO SUCH STREET UNABLE TO FORWARD" by the USPS.

With this renewed petition, Petitioner has included, *inter alia*, copies of both a mail log and a master docket. Each of these items has been reviewed by the undersigned, and the relevant Office communication has not been located therein. Petitioner has further indicated that the docketing department of Petitioner's law firm scans all physical mail, and the electronically scanned documents are both archived and sent to "docketing workflow folders" which are then reviewed and entered into a docketing system. This docketing system automatically generates the "initial deadline, two monthly extensions and the final deadline."[4]

However, this statement does not sufficiently describe the system used for recording an Office communication received at the correspondence address of record with the USPTO, so as to establish that the docketing system is sufficiently reliable. More specifically, the record establishes that a docketing system is in place and Office communications are entered into that system, however the record does not contain an explanation of precisely how this docketing system ensures that the correspondence recorded therein is responded to in a timely manner. On second renewed petition, Petitioner should indicate what step(s) occur(s) after the aforementioned automatic generation of response dates? Does this computer-based docketing software program generate reports which are distributed to the responsible attorneys so as to alert them of the aforementioned deadlines?

CONCLUSION

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

The second renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail,[5] hand-delivery,[6] or facsimile.[7]

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4 Renewed petition, page 2.
5 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
6 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.

Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web.[8]

If responding by mail, Petitioner is advised not to place the undersigned's name on the envelope. Only the information that appears in the footnote should be included - adding anything else to the address will delay the delivery of the response to the undersigned.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[9] All other inquiries concerning examination procedures should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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7 (571) 273-8300: please note this is a central facsimile number.
8 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html
9 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any of Petitioner's further action(s).

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

FULBRIGHT & JAWORSKI, LLP
666 FIFTH AVE
NEW YORK NY 10103-3198

MAILED
AUG 16 2011
OFFICE OF PETITIONS

In re Application of	:	
Krempel-Hesse et al.	:	
Application No. 11/284,439	:	DECISION ON PETITION
Filed: November 21, 2005	:	PURSUANT TO
Attorney Docket No.: AFILM-202	:	37 C.F.R. § 1.137(B)
Title: MAGNETRON SPUTTER CATHODE	:	

This is a decision on the petition pursuant to 37 C.F.R. § 1.137(b), filed August 8, 2011, to revive the above-identified application.

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

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed March 11, 2009, which set a shortened statutory period for reply of three months. No response was received, and no extensions of time under the provisions of 37 C.F.R. § 1.136(a) were requested. Accordingly, the above-identified application became abandoned on June 12, 2009. A notice of abandonment was mailed on September 25, 2009.

An original petition pursuant to 37 C.F.R. § 1.181 was filed on November 4, 2009, which was dismissed via the mailing of a decision on December 22, 2009.

A renewed petition pursuant to 37 C.F.R. § 1.181 was filed on January 21, 2011, and was dismissed via the mailing of a decision on July 15, 2011.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in 37 C.F.R. § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

With this petition, Petitioner has submitted the petition fee and the proper statement of unintentional delay. An amendment was preveniently submitted on November 4, 2009 concurrently with the filing of a Request for Continued Examination (RCE) and the associated fee.

As such, the first three requirements of Rule 1.137(b) have been met. The fourth requirement of Rule 1.137(b) is not applicable, as a terminal disclaimer is not required.[1]

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the submission under 37 C.F.R. § 1.114 - the amendment submitted on November 4, 2009 - can be processed in due course.

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

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[2] All other inquiries

1 See Rule 1.137(d).
2 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded

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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that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BURNS & LEVINSON, LLP
125 SUMMER STREET
BOSTON, MA 02110

MAILED

AUG 23 2010

OFFICE OF PETITIONS

In re Patent of Cherkas :
Patent No. 7,595,801 :
Issue Date: September 29, 2009 : DECISION ON REQUEST FOR
Application No. 11/284,547 : CERTIFICATE OF CORRECTION
Filing Date: November 22, 2007 :
Attorney Docket No. 31345-102CIP :

This letter is in response to the "REQUEST FOR CERTIFICATE OF CORRECTION UNDER 37 CFR § 1.323" filed October 5, 2009, **to the extent the requests seeks correction of the patent term adjustment set forth on the patent.**

The request is dismissed

The request states,

> The patent term adjustment of 441 days appears [on the patent], even though Applicant has disclaimed the patent term adjustment in the ... terminal disclaimer filed September 17, 2009.

The Office calculates patent term adjustment for examination delay in all eligible applications. In calculating the patent term adjustment, the Office does not differentiate between applications that have terminal disclaimers and those that do not. Nor does the Office undertake the burdensome task of reviewing every application with a terminal disclaimer to determine if the patent term adjustment accorded would adjust the term beyond the expiration date specified in the disclaimer. Instead, when issuing an application containing a terminal disclaimer, the Office indicates on the patent the fact the patent term adjustment indicated therein is subject to any disclaimer and states the patent is subject to a terminal disclaimer.

The face of the instant patent states,

> Subject to any disclaimer, the term of this patent is extended or adjustment under 35 U.S.C. 154(b) by 441 days.
>
> This patent is subject to a terminal disclaimer.

Since the instant patent states the patent term adjustment is subject to any disclaimer and states the patent is subject to a terminal disclaimer, a certificate of correction based on a mistake in the portion of the patent referencing patent term adjustment is unwarranted.

In view of the prior discussion, the request for the certificate of correction, to the extent the request seeks a change in the patent term adjustment, is improper and will not be granted.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JUL 12 2011

OFFICE OF PETITIONS

Legal Department
3011 N. First Street
SAN JOSE CA 95134

In re Patent No. 7,309,658	:	
Issued: December 18, 2007	:	
Application No.: 11/284,572	:	NOTICE
Filed: November 22, 2005	:	
Attorney Docket No: IMOL-00600/IM0002	:	

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

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

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

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

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

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

TYCO HEALTHCARE - EDWARD S. JARMOLOWICZ
15 HAMPSHIRE STREET
MANSFIELD MA 02048

In re Application of
KNAUPER, CHRISTOPHER A. :
Application No.: 11/284,575 :
Filing or 371(c) Date: December 22, 2005 :
Attorney Docket Number: h-KN-00426(TYCK 0426) :

OCT 20 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 October 12, 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 June 24, 2010 which set forth a three (3) month statutory period of reply. The Notice of Abandonment was mailed on October 7, 2010.

Petitioner states that the issue fee transmittal and payment were timely filed via the USPTO on August 26, 2010. Petitioner submitted a copy of the original submission which included a properly completed Certificate of Mailing/Transmission.

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

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

JUN 20 2011

OFFICE OF PETITIONS

Fish & Richardson PC
P.O.Box 1022
Minneapolis MN 55440

In re Patent No. 7,904,941	:	DECISION ON REQUEST
Jagadeesan, et al.	:	FOR
Issue Date: March 8, 2011	:	RECONSIDERATION OF
Application No. 11/284,666	:	PATENT TERM ADJUSTMENT
Filed: November 22, 2005	:	and
Atty Docket No. 26310-0146001	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on May 9, 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, three hundred and sixty-four (1,364) 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 five(1,205)days** is **GRANTED to the extent indicated herein.**

The instant petition was filed May 9, 2010. Patentees state, in pertinent part:

> Section 154(b)(1)(B)(i) of Title 35 excludes from the calculation of B Delay "any time consumed by continued examination of the application." In the present matter, a Request for Continued Examination were filed on June 18, 2010. The Director erred in the calculation of the patent term adjustment by subtracting from B Delay a period of time that was not "consumed by continued examination of the application." The PTO mailed a Notice of Allowance on October 1, 2010, thereby closing examination of the application on that date. Thus, no continued examination took place during the 159 day period from October 1, 2010 (the mailing date of the Notice of Allowance) until March

8, 2011 (the date the patent was issued). Accordingly, 159 days of B Delay should have been included in addition to the 572 days accorded by the Director for a total B Delay of 731 days. period of 159 days for "B Delay" should be considered from October 1, 2010, to March 8, 2011.

Patentees' argument has been considered, but is not persuasive. Counting the period of time excluded from the "B delay" for the filing of a request for continued examination under 35 U.S.C. 132(b), from the date on which the request for continued examination is filed to the date the patent is issued is proper. Patentees do not dispute that time consumed by continued examination of an application under 35 U.S.C. 132(b) is properly excluded and that the calculation of the excluded period begins on the date of filing of the request for continued examination. At issue is what further processing or examination beyond the date of filing of the request for continued examination is time consumed by continued examination of the application under 35 U.S.C. 132(b). The USPTO indicated in September of 2000 in the final rule to implement the patent term adjustment provisions of the AIPA that once a request for continued examination under 35 U.S.C. 132(b) and 37 CFR 1.114 is filed in an application, any further processing or examination of the application, including granting of a patent, is by virtue of the continued examination given to the application under 35 U.S.C. 132(b) and CFR 1.114. See Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term, 65 Fed. Reg. 56365, 56376 (Sept. 18, 2000) (response to comment 8). Thus, the excluded period begins with the filing of the request for continued examination and ends with the issuance of the patent. Thus, the period of adjustment to the patent term for "B" delay is 572 days.

A review of the PALM calculations for this application reveals that the patent term adjustment was reduced by 33 days for the submission of the "miscellaneous incoming letter." See 37 CFR 1.704(c)(10). However, a review of the application record confirms that the "miscellaneous incoming letter." was a "Response to Notice of Allowance". Such a paper is identified as one of the papers[1] the filing of which the Director has

[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

specifically deemed not be a "failure to engage in reasonable efforts" within the meaning of 37 CFR 1.704(c)(10)[2]. Thus, the reduction to patent term adjustment of 33 day pursuant to 37 CFR 1.704(c)(10) will be removed.

Accordingly, the revised patent term adjustment is 1,172 days (960 days "A" delay + 572 days "B" delay - 290 days of overlap - 37 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.

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

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

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

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

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand, two hundred and five (1,205)** days.

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

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,904,941 B2

DATED : Mar. 8, 2011

INVENTOR(S) : Jagadeesan 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 (1,172) days

Delete the phrase "by 1,172 days" and insert – by 1,205 days--

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OFFICE OF PETITIONS

Fish & Richardson PC
P.O.Box 1022
Minneapolis MN 55440

In re Patent No. 7,904,941	:	DECISION ON REQUEST
Jagadeesan, et al.	:	FOR
Issue Date: March 8, 2011	:	RECONSIDERATION OF
Application No. 11/284,666	:	PATENT TERM ADJUSTMENT
Filed: November 22, 2005	:	and
Atty Docket No. 26310-0146001	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a **revised** decision on the petition filed on May 9, 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, three hundred and sixty-four (1,364) 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 five(1,205)days** is **GRANTED to the extent indicated herein.**

The instant petition was filed May 9, 2010. Patentees state, in pertinent part:

> Section 154(b)(1)(B)(i) of Title 35 excludes from the calculation of B Delay "any time consumed by continued examination of the application." In the present matter, a Request for Continued Examination were filed on June 18, 2010. The Director erred in the calculation of the patent term adjustment by subtracting from B Delay a period of time that was not "consumed by continued examination of the application." The PTO mailed a Notice of Allowance on October 1, 2010, thereby closing examination of the application on that date. Thus, no continued examination took place during the 159 day period from October 1, 2010 (the mailing date of the Notice of Allowance) until March

8, 2011 (the date the patent was issued). Accordingly, 159 days of B Delay should have been included in addition to the 572 days accorded by the Director for a total B Delay of 731 days. period of 159 days for "B Delay" should be considered from October 1, 2010, to March 8, 2011.

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

Further, counting the period of time excluded from the "B delay" for the filing of a request for continued examination under 35 U.S.C. 132(b), from the date on which the request for continued examination is filed to the date the patent is issued is proper. Patentee does not dispute that time consumed by continued

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[1] Pursuant to 35 U.S.C. 132(b), 37 CFR 1.114 provides for continued examination of an application, as follows:

(a) If prosecution in an application is closed, an applicant may request continued examination of the application by filing a submission and the fee set forth in § 1.17(e) prior to the earliest of:

(1) Payment of the issue fee, unless a petition under § 1.313 is granted;

(2) Abandonment of the application; or

(3) The filing of a notice of appeal to the U.S. Court of Appeals for the Federal Circuit under 35 U.S.C. 141, or the commencement of a civil action under 35 U.S.C. 145 or 146, unless the appeal or civil action is terminated.

(b) Prosecution in an application is closed as used in this section means that the application is under appeal, or that the last Office action is a final action (§ 1.113), a notice of allowance (§ 1.311), or an action that otherwise closes prosecution in the application.

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(D.D.C., September 30, 2008), because the clock for calculating the 20-year patent term begins to run on the filing date, and not on the day the patent is actually granted, some of the effective term of a patent is consumed by the time it takes to prosecute the application. To mitigate this effect, the statute, *inter alia*, grants adjustments of patent term whenever the patent prosecution takes more than three years, regardless of the reason. The time consumed by prosecution of the application includes every day the application is pending before the Office from the actual filing date of the application in the United States until the date of issuance of the patent. The time it takes to prosecute the application ends not with the

mailing of the notice of allowance, but with the issuance of the patent.

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

Fourth, "the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued" meaning that the consequence of this failure is that after "the end of that 3-year period" an additional 1 day of patent term will accrue for each day that the application is pending until the day the patent is issued.

The "time consumed by" or used in the course of the continued examination of the application requested by the

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[2] Clause (iii) provides for not including (iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued. It is noted that paragraph (3)(C) allows with an adequate showing by applicant for reinstatement of no more than 3 months of the patent term reduced for applicant delay in taking in excess of three months to respond.

applicant under section 132(b) does not end until issuance of the patent. 35 U.S.C. 132(b) was enacted under the same title, the "American Inventors Protection Act of 1999," as 35 U.S.C. 154(b). Section 4403 of the AIPA amended 35 U.S.C. § 132 to provide, at the request of the applicant, for continued examination of an application for a fee (request for continued examination or RCE practice), without requiring the applicant to file a continuing application under 37 CFR 1.53(b) or a continued prosecution application (CPA) under 37 CFR 1.53(d). Thus, clause (i) is different from clause (ii) in that clause (i) refers to an examination process whereas clause (ii) refers to time consumed by proceedings (interferences, secrecy orders and appeals) in an application.

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

by the applicant or uncovered by the USPTO), the USPTO will withdraw the application from issuance and issue an Office action under 35 U.S.C. 132 stating the applicable rejection, objection, or other requirement, with the reasons therefor.

As held in Blacklight Power, the USPTO's responsibility to issue a patent containing only patentable claims does not end with the issuance of a notice of allowance under 35 U.S.C. 151. See BlackLight Power, Inc. v. Rogan, 295 F.3d 1269, 1273 (Fed. Cir. 2002). Rather, if there is any substantial, reasonable ground within the knowledge or cognizance of the Director as to why an application should not issue, it is the USPTO's duty to refuse to issue the patent even if a notice of allowance has previously been issued for the application. See In re Drawbaugh, 9 App. D.C. 219, 240 (D.C. Cir 1896).

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

As the examination process does not terminate with the mailing of the notice of allowance, the time consumed by continued examination requested by the applicant under section 132(b) does not terminate with the mailing of the notice of allowance. All the time the application is pending from the date of filing of the request for continued examination to the mailing of the notice of allowance through issuance of the patent is a consequence of the filing of the request for continued examination. Further action by the Office is pursuant

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

to that request. Applicant has gotten further prosecution of the application without having to file a continuing application under 37 CFR 1.53(b).

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

In this instance, a request for continued examination was filed on June 18, 2010, and the patent issued by virtue of that request on March 8, 2011. Pursuant to 35 U.S.C. 154(b)(1)(B)(i), the period beginning on June 18, 2010, and ending on March 8, 2011 is not included in calculating Office delay.

A review of the PALM calculations for this application reveals that the patent term adjustment was reduced by 33 days for the submission of the "miscellaneous incoming letter." See 37 CFR 1.704(c)(10). However, a review of the application record confirms that the "miscellaneous incoming letter." was a "Response to Notice of Allowance". Such a paper is identified as one of the papers[4] the filing of which the Director has

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[4] 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

specifically deemed not be a "failure to engage in reasonable efforts" within the meaning of 37 CFR 1.704(c)(10)[5]. Thus, the reduction to patent term adjustment of 33 day pursuant to 37 CFR 1.704(c)(10) will be removed.

Accordingly, the revised patent term adjustment is 1,172 days (960 days "A" delay + 572 days "B" delay - 290 days of overlap - 37 days of applicant delay.)

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

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

---

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).

[5] 37 CFR 1.704(c)(10)provides that:

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

The 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, two hundred and five (1,205)** days.

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

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,904,941 B2

DATED : Mar. 8, 2011

INVENTOR(S) : Jagadeesan 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 (1,172) days

Delete the phrase "by 1,172 days" and insert – by 1,205 days--

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In re Patent No.7,904,941 :
Jagadeesan, et al. : DECISION FOR REQUEST
Issue Date: March 8, 2011 : FOR RECONSIDERATION
Application No. 11/284,666 : OF PATENT TERM
Filed: November 22, 2005 : ADJUSTMENT
Attorney Docket No. 26310-0146001 :

This is a decision on the "Response to Decision on Request for Reconsideration of Patent Term Adjustment and Notice of Intent to Issue Certificate of Correction", filed July 21, 2011. Patentees request that the patent term adjustment indicated on the face of the Letters of Patent be corrected from one thousand, two hundred and five (1,205) days, to one thousand, three hundred and sixty-four (1,364) days.

The request for reconsideration is granted to the extent that the determination has been reconsidered; however, the request for reconsideration of patent term adjustment is **DENIED** with respect to making any change in the patent adjustment determination under 35 U.S.C. § 154(b) of 1,205 days. This decision may be viewed as a final agency action within the meaning of 5 U.S.C. 704 and for purposes of seeking judicial review. See MPEP §1002.02.

BACKGROUND

On March 8, 2011, the subject application matured into U.S. patent No. 7,904,941, with a revised patent term adjustment of one thousand, one hundred and seventy-two (1,172) days. This revised determination included entry of an additional period of adjustment of five hundred and seventy-two (572) days for the Office taking in excess of three years to issue the patent.

On May 9, 2011, a petition under 37 CFR 1.705(d) was filed requesting that patent term adjustment be reflected as one thousand, three hundred and sixty-four (1,364) days.

By decision mailed June 20, 2011, and in revision on June 27, 2011, the request for reconsideration was granted only to the extent that the disputed period of reduction of 33 days previously entered pursuant to 37 C.F.R. §1.704(c)(10) was removed. The revised patent term adjustment was corrected to one thousand, two hundred and five (1,205) days.

On July 21, 2007, this request for reconsideration of the decision was filed.

By the instant petition, patentees again dispute the calculation of the "B" delay period of the patent term adjustment. Specifically, patentees' state:

> Patentees submit that B Delay accumulated for a total of 836 days, beginning on November 23, 2008 (the day after the date that is three years after the date on which the application was filed), and ending March 8, 2011 (the date the patent was issued). The Office has excluded from B Delay the number of days corresponding to the period beginning on June 18, 2010 (the date on which a Request for Continued Examination was filed) and ending on March 8, 2011 (the date the patent was issued). However, this entire period should not be excluded from B delay because it does not correspond in its entirety to continued examination. The Notice of Allowance Action mailed on October 1, 2010, closed examination of the application on that date. Section 154(b)(1)(B)(i) of Title 35 excludes from B Delay "time consumed by continued examination of the application.' The statute does not provide for exclusion from B Delay of time from the mailing of a Notice of Allowance until issuance (a period during which continued examination did not occur.

Excerpt taken from "Response to Decision on Request for Reconsideration of Patent Term Adjustment and Notice of Intent to Issue Certificate of Correction", filed July 21, 2011, p. 2.

STATUTE AND REGULATION

35 U.S.C. § 154(b) as amended by § 4402 of the American Inventors Protection Act of 1999[1] (AIPA) provides that:

> ADJUSTMENT OF PATENT TERM. –
> (1) PATENT TERM GUARANTEES. –
> (A) GUARANTEE OF PROMPT PATENT AND TRADEMARK OFFICE RESPONSES. – Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the Patent and Trademark Office to –
> (i) provide at least one of the notifications under section 132 of this title or a notice of allowance under section 151 of this title not later than 14 months after –
> (I) the date on which an application was filed under section 111(a) of this title; or
> (II) the date on which an international application fulfilled the requirements of section 371 of this title;
> (ii) respond to a reply under section 132, or to an appeal taken under section 134, within 4 months after the date on which the reply was filed or the appeal was taken;
> (iii) act on an application within 4 months after the date of a decision by the Board of Patent Appeals and Interferences under section 134 or 135 or a decision by a Federal court under section 141, 145, or 146 in a case in which allowable claims remain in the application; or
> (iv) issue a patent within 4 months after the date on which the issue fee was paid under section 151 and all outstanding requirements were satisfied, the term of the patent shall be extended 1 day for each day after the end of the period specified in clause (i), (ii), (iii), or (iv), as the case may be, until the action described in such clause is taken.
>
> (B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY. – Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to

[1] Public Law 106-113, 113 Stat. 1501, 1501A-557 through 1501A-560 (1999).

issue a patent within 3 years after the actual filing date of the application in the United States, not including –

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

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

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

(C) GUARANTEE OR ADJUSTMENTS FOR DELAYS DUE TO INTERFERENCES, SECRECY ORDERS, AND APPEALS. – Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to –

(i) a proceeding under section 135(a);

(ii) the imposition of an order under section 181; or

(iii) appellate review by the Board of Patent Appeals and Interferences or by a Federal court in a case in which the patent was issued under a decision in the review reversing an adverse determination of patentability, the term of the patent shall be extended 1 day for each day of the pendency of the proceeding, order, or review, as the case may be.

(2) LIMITATIONS. –

(A) IN GENERAL. – To the extent that periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

The implementing regulation, 37 CFR § 1.702, provides grounds for adjustment of patent term due to examination delay under the Patent Term Guarantee Act of 1999 (original applications, other than designs, filed on or after May 29, 2000).

(a) Failure to take certain actions within specified time frames. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to:

(1) Mail at least one of a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) or fulfilled the requirements of 35 U.S.C. 371 in an international application;

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

(3) Act on an application not later than four months after the date of a decision by the Board of Patent Appeals and Interferences under 35 U.S.C. 134 or 135 or a decision by a Federal court under 35 U.S.C. 141, 145, or 146 where at least one allowable claim remains in the application; or

(4) Issue a patent not later than four months after the date on which the issue fee was paid under 35 U.S.C. 151 and all outstanding requirements were satisfied.

(b) Failure to issue a patent within three years of the actual filing date of the application. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application, but not including[2]:

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

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

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

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

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

In pertinent part, 37 CFR § 1.703 provides for calculation of the periods, as follows:

Period of adjustment of patent term due to examination delay.

(a) The period of adjustment under § 1.702(a) is the sum of the following periods:

(1) The number of days, if any, in the period beginning on the day after the date that is fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) or fulfilled the requirements of 35 U.S.C. 371 and ending on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first;

(2) The number of days, if any, in the period beginning on the day after the date that is four months after the date a reply under § 1.111 was filed and ending on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first;

(3) The number of days, if any, in the period beginning on the day after the date that is four months after the date a reply in compliance with § 1.113(c) was filed and ending on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first;

(4) The number of days, if any, in the period beginning on the day after the date that is four months after the date an appeal brief in compliance with § 41.37 of this title was filed and ending on the date of mailing of any of an examiner's answer under § 41.39 of this title, an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first;

(5) The number of days, if any, in the period beginning on the day after the date that is four months after the date of a final decision by the Board of Patent Appeals and Interferences or by a Federal court in an appeal under 35 U.S.C. 141 or a civil action under 35 U.S.C. 145 or 146 where at least one allowable claim remains in the application and ending on the date of mailing of either an action under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151, whichever occurs first; and

(6) The number of days, if any, in the period beginning on the day after the date that is four months after the date the issue fee was paid and all outstanding requirements were satisfied and ending on the date a patent was issued.

(b) The period of adjustment under § 1.702(b) is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the sum of the following periods[3]:

37 CFR 1.703(f) provides that:

The adjustment will run from the expiration date of the patent as set forth in 35 U.S.C. 154(a)(2). To the extent that periods of delay attributable to the grounds specified in §1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed. The term of a patent entitled to adjustment under § 1.702 and

[3] (1) The number of days, if any, in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued;

(2)(i) The number of days, if any, in the period beginning on the date an interference was declared or redeclared to involve the application in the interference and ending on the date that the interference was terminated with respect to the application; and (ii) The number of days, if any, in the period beginning on the date prosecution in the application was suspended by the Office due to interference proceedings under 35 U.S.C. 135(a) not involving the application and ending on the date of the termination of the suspension;

(3)(i) The number of days, if any, the application was maintained in a sealed condition under 35 U.S.C. 181; (ii) The number of days, if any, in the period beginning on the date of mailing of an examiner's answer under § 41.39 of this title in the application under secrecy order and ending on the date the secrecy order was removed; (iii) The number of days, if any, in the period beginning on the date applicant was notified that an interference would be declared but for the secrecy order and ending on the date the secrecy order was removed; and (iv) The number of days, if any, in the period beginning on the date of notification under § 5.3(c) of this chapter and ending on the date of mailing of the notice of allowance under 35 U.S.C. 151; and,

(4) The number of days, if any, in the period beginning on the date on which a notice of appeal to the Board of Patent Appeals and Interferences was filed under 35 U.S.C. 134 and § 41.31 of this title and ending on the date of the last decision by the Board of Patent Appeals and Interferences or by a Federal court in an appeal under 35 U.S.C. 141 or a civil action under 35 U.S.C. 145, or on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first, if the appeal did not result in a decision by the Board of Patent Appeals and Interferences.

this section shall be adjusted for the sum of the periods calculated under paragraphs (a) through (e) of this section, to the extent that such periods are not overlapping, less the sum of the periods calculated under § 1.704. The date indicated on any certificate of mailing or transmission under § 1.8 shall not be taken into account in this calculation.

OPINION

Patentees' argument has again been considered, but is not persuasive. The Office's calculation of "B delay" is correct. The "B delay" is an adjustment entered if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed. However, the adjustment does not include, among other things, any time consumed by continued examination of the application at the request of the applicant under 35 U.S.C. 132(b)[4]. So, with respect to calculating the "B delay" where applicant has filed a request for continued examination, the period of adjustment is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the number of days in the period beginning on the date on which a request for

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[4] Pursuant to 35 U.S.C. 132(b), 37 CFR 1.114 provides for continued examination of an application, as follows:

(a) If prosecution in an application is closed, an applicant may request continued examination of the application by filing a submission and the fee set forth in § 1.17(e) prior to the earliest of:

(1) Payment of the issue fee, unless a petition under § 1.313 is granted;

(2) Abandonment of the application; or

(3) The filing of a notice of appeal to the U.S. Court of Appeals for the Federal Circuit under 35 U.S.C. 141, or the commencement of a civil action under 35 U.S.C. 145 or 146, unless the appeal or civil action is terminated.

(b) Prosecution in an application is closed as used in this section means that the application is under appeal, or that the last Office action is a final action (§ 1.113), a notice of allowance (§ 1.311), or an action that otherwise closes prosecution in the application.

continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued.

Further, counting the period of time excluded from the "B delay" for the filing of a request for continued examination under 35 U.S.C. 132(b), from the date on which the request for continued examination is filed to the date the patent is issued is proper. Patentee does not dispute that time consumed by continued examination of an application under 35 U.S.C. 132(b) is properly

excluded and that the calculation of the excluded period begins on the date of filing of the request for continued examination. At issue is what further processing or examination beyond the date of filing of the request for continued examination is not any time consumed by continued examination of the application under 35 U.S.C. 132(b). The USPTO indicated in September of 2000 in the final rule to implement the patent term adjustment provisions of the AIPA that once a request for continued examination under 35 U.S.C. 132(b) and 37 CFR 1.114 is filed in an application, any further processing or examination of the application, including granting of a patent, is by virtue of the continued examination given to the application under 35 U.S.C. 132(b) and CFR 1.114. See Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term, 65 Fed. Reg. 56366, 56376 (Sept. 18, 2000) (response to comment 8). Thus, the excluded period begins with the filing of the request for continued examination and ends with the issuance of the patent.

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

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

Second, "if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office

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

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

Furthermore, these clauses are interpreted using their ordinary meanings. Nonetheless, the context of the legislation should be considered. As stated in Wyeth v. Dudas, 580 F.

Supp.2d 138(D.D.C., September 30, 2008), because the clock for calculating the 20-year patent term begins to run on the filing date, and not on the day the patent is actually granted, some of the effective term of a patent is consumed by the time it takes to prosecute the application. To mitigate this effect, the statute, *inter alia*, grants adjustments of patent term whenever the patent prosecution takes more than three years, regardless of the reason. The time consumed by prosecution of the application includes every day the application is pending before the Office from the actual filing date of the application in the United States until the date of issuance of the patent. The time it takes to prosecute the application ends not with the

mailing of the notice of allowance, but with the issuance of the patent.

Thus, not including "any time consumed by" means not including any days used to prosecute the application as specified in clauses (i)-(ii)[5]. Clause (i) specifies "any time consumed by 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

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[5] Clause (iii) provides for not including (iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued. It is noted that paragraph (3)(C) allows with an adequate showing by applicant for reinstatement of no more than 3 months of the patent term reduced for applicant delay in taking in excess of three months to respond.

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[6] permit the filing of a request for continued examination under 37 CFR 1.114 even after the issuance of a notice of allowance under 35 U.S.C. 151. See 37 CFR 1.114(a)(1).

As the examination process does not terminate with the mailing of the notice of allowance, the time consumed by continued examination requested by the applicant under section 132(b) does not terminate with the mailing of the notice of allowance. All the time the application is pending from the

date of filing of the request for continued examination to the mailing of the notice of allowance through issuance of the patent is a consequence of the filing of the request for continued examination. Further action by the Office is pursuant to that request. Applicant has gotten further prosecution of the application without having to file a continuing application under 37 CFR 1.53(b).

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

In this instance, a request for continued examination was filed on June 18, 2010, and the patent issued by virtue of that request on March 8, 2011. Pursuant to 35 U.S.C. 154(b)(1)(B)(i), the period beginning on June 18, 2010, and ending on March 8, 2011, is not included in calculating Office delay. In view thereof, it is concluded that the patent term adjustment of 1,205 days is correct.

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

CONCLUSION

The request for reconsideration of the revised patent term adjustment is denied.

The Office acknowledges that patentees previously submitted the $200 fee set forth in §1.18(e) on application for patent term adjustment filed May 9, 2011. As this request pertains only to the over 3-year delay issue raised in the application for patent term adjustment, no additional fees are required.

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, two hundred and five (1,205)** days.

Telephone inquiries specific to this matter should be directed to Kenya A. McLaughlin. Petitions Attorney, (571) 272-3222.

Anthony Knight
Director
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,904,941 B2

DATED : Mar. 8, 2011

INVENTOR(S) : Jagadeesan 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 (1,172) days

Delete the phrase "by 1,172 days" and insert – by 1,205 days--

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 6/14-10 Paper No.: _____

TO SPE OF : ART UNIT 2627

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/284,687

Patent No.: 7684309

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

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

_____

_____

_____

SPE /Hoa T. Nguyen/ ART UNIT 2627

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAILED

NOV 02 2010

PCT LEGAL ADMINISTRATION

In re Application of :
GILAD *et al* :
Application No.: 11/284,915 :
Filing Date: November 23, 2005 : **DECISION**
Attorney Docket No.: P-8393-US :
For: DEVICE, SYSTEM AND METHOD FOR :
IN-VIVO IMAGING OF A BODY LUMEN :

This is a decision on the renewed petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) filed August 27, 2010, to accept an unintentionally delayed claim under 35 U.S.C. §§120, 365(c) and 119(e) for the benefit of prior-filed applications.

The renewed 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 designating the United States of America 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) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

> **(1)** the reference required by 35 U.S.C. § 120 and 119(e) and 37 CFR §§1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
> **(2)** the surcharge set forth in § 1.17(t); and
> **(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) and 1.78(a)(6) in that (1) a reference to the prior-filed international application designating the United States of America claiming priority to a U.S.

provisional application was submitted in an amendment filed August 27, 2010 in accordance with 37 CFR 1.76 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) was previously submitted; and (3) the statement of unintentional delay was also previously submitted.

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) should not be construed as meaning that this application is entitled to the benefit of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether 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 questions concerning this decision may be directed to James Thomson at (571) 272-3302.

This matter is being referred to Technology Center Art Unit 3777 for appropriate action on the amendment filed August 27, 2010, including consideration by the examiner of applicants' entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed international application designating the United States of America and U.S. provisional application.

Bryan Lin

Bryan Lin
Legal Examiner
Office of PCT Legal Administration

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.
11/285,145	11/23/2005	Kenneth Davison	50345-003	8247

51590 7590 08/09/2010

NEXUS LAW GROUP LLP
1500 - 701 WEST GEORGIA STREET
VANCOUVER, BC V7Y 1C6
CANADA

EXAMINER	
RINEHART, KENNETH	

ART UNIT	PAPER NUMBER
3743	

NOTIFICATION DATE	DELIVERY MODE
08/09/2010	ELECTRONIC

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

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

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

ntoth@nexuslaw.ca
ozsigmond@nexuslaw.ca
lkyle@nexuslaw.ca

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NEXUS LAW GROUP LLP
1500 - 701 WEST GEORGIA STREET
VANCOUVER BC V7Y 1C6 CA CANADA

In re Application of:
DAVISON, KENNETH et al.
Serial No.: 11/285,145
Filed: Nov. 23, 2005
Docket: 50345-003
Title: SIDE FEED/CENTRE ASH DUMP SYSTEM

DECISION ON PETITION FOR WITHDRAWAL FROM ISSUE

This is a decision on the petition filed July 28, 2010 to withdraw from issue the above referenced application.

The petition is **DISMISSED AS UNTIMELY**.

Pertinent to the issue, the record shows that:

1) On Nov. 23, 2005, a Declaration was filed stating that the first named inventor is Kenneth Davison and that the second named inventor is Neal Stroulger. As the application was filed, there is no indication of any other inventor.
2) On June 19, 2007, a Statement of assignment of title, under 37 CFR 3.73(b), was filed. Therein, Neal Stroulger and Dave Berner assigned their rights to Kenneth Davison, the assignment being effectuated by presenting the "chain of title".
3) On May 3, 2010, a Notice of Allowance and Fee(s) Due was mailed.
4) On July 28, 2010, applicant filed a petition for Withdrawal from Issue, under 37 CFR 1.313. The petition states that the originally filed Declaration was incomplete as it lists only two or the three inventors. Withdrawal from issue is required, according to applicant, in order to provide sufficient time to obtain the required signatures of all the inventors on a new Declaration, and to proceed with its filing along with a request under 37 CFR 1.48.

Applicable Rules or Statutes

37 CFR 1.181(f):

> The mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings. Any petition under this part not filed within two months of the mailing date of the action or notice from which relief is requested may be dismissed as untimely, except as otherwise provided. This two-month period is not extendable.

Discussion and Analysis

A review of the record shows that the instant petition was filed more than two months after the mailing date of the Notice of Allowance, mailed on May 3, 2010. Pursuant to 37 CFR 1.181(f), the petition is not timely filed since the petition was not filed within two months of the action complained of. As the petition was not timely filed, the relief requested will not be granted.

A review of the record also does not show that the examiner made any mistakes. The assignment filed on June 19, 2007, does have Dave Berner assign his rights to Kenneth Davison. However, in view of the original declaration, Dave Berner had no rights in the invention. Inventorship change can only be properly made by filing a Rule 47 or Rule 48 petition during the pendency of the application. The current petition includes no Rule 47 or Rule 48 petition to change inventorship. Requesting extra time to prepare petition for inventorship change does not constitute a good and sufficient reason to withdraw the application from issue. After almost five years from the filing date, petitioner simply did not provide any good and sufficient reasons why withdrawal for issue is necessary. Therefore, the petition to withdraw from issue will not be granted.

Conclusion

In view of the above, the requested relief can not be granted, and the petitioner's request is dismissed as untimely.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision, 37 CFR 1.181(f). No extension of time under 37 CFR 1.136(a) is permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181". Any inquiry regarding this decision should be directed to Henry Yuen, Special Program Examiner, at (571) 272-4856.

PETITION DISMISSED

Angela D. Sykes, Director
Technology Center 3700

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/28/11

TO SPE OF : ART UNIT 3743

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/285,145 Patent No. 7,793,601

CofC mailroom date 3/14/11

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.

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

Comments: _____

_____

_____

_____

/Kenneth Rinehart/ _____ **SPE AU 3743**

SPE **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110330

DATE : March 29, 2011

TO SPE OF : ART UNIT 3743

SUBJECT : Request for Certificate of Correction on Patent No.: 7,793,601

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:

/KENNETH B RINEHART/
Supervisory Patent Examiner.Art Unit 3743

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/285,182	11/23/2005	Hajime Kamata	1086.1249	1319

21171 7590 07/22/2011
STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

EXAMINER	
GOLABBAKHSH, EBRAHIM	
ART UNIT	PAPER NUMBER
2452	
MAIL DATE	DELIVERY MODE
07/22/2011	PAPER

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

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

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

Application No.: 11285182 :
Filed: 11/23/2005 : **DECISION ON PETITION**
Patent Number: 7,925,714 :
Issue Date: 04/12/11 :
Attorney Docket No. **1086.1249** :

This is a decision on the Petition filed under 37 CFR 1.181 received in the United States Patent and Trademark Office (USPTO) on July 13, 2011. Petitioner seeks relief from filing a Petition for Duplicate Letters Patent in this application due to the non-receipt of a large number of Patent Grants in the April 12, 2011 issue.

The Petition is **GRANTED**.

Petitioner submitted a statement that the Patent Grant was not received at the correspondence address of record; that a search of records did not indicate receipt; and that the docketing system is sufficiently reliable. Petitioner filed a copy of the docketing records showing receipts dates and application history as evidence.

Therefore, the Office of Data Management will provide one additional Original Letters Patent for this application.

Telephone inquiries relating to this matter may be directed to the undersigned in the Office of Data Management at 571-272-4200.

/Kimberly Terrell/
Manager
Office of Data Management
Patent Publication Branch

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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GE MEDICAL SYSTEM
C/O FOLEY & LARDNER LLP
777 EAST WISCONSIN AVENUE
MILWAUKEE WI 53202-5306

MAILED

SEP 20 2010

OFFICE OF PETITIONS

In re Application of :
Gary J. Secora :
Application Number: 11/285324 :
Filing Date: 11/22/2005 :
Attorney Docket Number: 066243-0272 (197092 IC) :

ON PETITION

This is a decision in response to the petition under 37 CFR 1.137(b) filed on June 1, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on May 23, 2010, for failure to file timely submit the issue and publication fees in response to the Notice of Allowance and Fee(s) Due mailed on February 22, 2010, which set a three (3) month statutory period for reply. Notice of Abandonment was mailed on June 7, 2010.

Receipt of the issue and publication fees is 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.[1] In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

[1] See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1208 Off. Gaz. Pat. Office 63, 103 (October 21, 1997).

There is no indication that petitioner herein was ever empowered to prosecute the instant application. If petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation must be mailed. 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.

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

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Cf:

WILLIAM T. KRYGER
20225 WATER TOWER BLVD W492
BROOKFIELD WI 53045

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STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

MAILED

SEP 27 2010

OFFICE OF PETITIONS

In re Application of	:	
Shuster et al.	:	
Application No. 11/285371	:	DECISION ON PETITION
Filing or 371(c) Date: 11/21/2005	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 3222.2090002	:	

This is a decision on the "Renewed Petition Under 37 C.F.R. § 1.78(a)(3) to Have Late Filed Benefit Claim Accepted," filed August 23, 2010, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the petition.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000 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 item (1), the Amendment is not acceptable as drafted since copendency does not exist between the above-identified application, and Application No. 10/789,449, for which the benefit is sought[1].

[1] The Amendment appears to contain a typographical error in identifying the application serial number.

Before the petition can be granted, petitioner must include the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application in an Amendment to the Specification or in an Application Data Sheet, along with a renewed petition under 37 CFR 1.78(a)(3).[2]

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 inquiries concerning this decision may be directed to Derek Woods at (571) 272-3232. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Christopher Bottorff
Supervisor
Office of Petitions

[2] There is no fee for the renewed petition. Also note that 37 CFR 1.33(b) requires that amendments and other papers, except for written assertions pursuant to 37 CFR 1.27(c)(2)(ii), filed in the application must be signed by an appropriate party. Therefore, a supplemental ADS filed after the filing of an application must be signed in accordance with 37 CFR 1.33(b).

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1100 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

MAILED

DEC 06 2010

OFFICE OF PETITIONS

In re Application of	:	
Shuster et al.	:	
Application No. 11/285371	:	DECISION ON PETITION
Filing or 371(c) Date: 11/21/2005	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 3222.2090002	:	

This is a decision on the "Renewed Petition Under 37 C.F.R. § 1.78(a)(3) to Have Late Filed Benefit Claim Accepted," filed December 2, 2010, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed with the present petition.

The petition is **GRANTED**.

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

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

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

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the

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

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

Any inquiries concerning this decision may be directed to Derek Woods at (571) 272-3232. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 2457 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed application.

Christopher Bottorff
Supervisor
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/285,371	11/21/2005	2457	665	3222.2090002	9	4

CONFIRMATION NO. 6522

26111
STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

CORRECTED FILING RECEIPT

Date Mailed: 12/03/2010

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

Applicant(s)

Brian Shuster, Stateline, NV;
Johnson Leong, San Jose, CA;
Matthew Price, Santa Clara, CA;
Brian Lam, Sunnyvale, CA;
Desmond Ford Johnson, Monte Sereno, CA;

Power of Attorney: The patent practitioners associated with Customer Number 26111

Domestic Priority data as claimed by applicant

This application is a CON of 10/769,449 01/29/2004 ABN
which is a CON of 09/386,529 08/30/1999 PAT 6,687,746

Foreign Applications

If Required, Foreign Filing License Granted: 12/30/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/285,371**

Projected Publication Date: Not Applicable

Non-Publication Request: No

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

Title

System, apparatus and method for hosting and assigning domain names on a wide area network

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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PEARL COHEN ZEDEK LATZER, LLP
1500 BROADWAY
12TH FLOOR
NEW YORK, NY 10036

MAILED
DEC 14 2010
OFFICE OF PETITIONS

Applicant: Saul Yedgar
Appl. No.: 11/285375
Filing Date: November 23, 2005
Title: USE OF LIPID CONJUGATES IN THE TREATMENT OF DISEASE
Attorney Docket No.: P-2507-US9
Pub. No.: US 2006/0293276 A1
Pub. Date: December 28, 2006

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on February 17, 2010, for the above-identified application.

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains a material error on the front page of the publication wherein the priority data was printed incorrectly.

37 CFR 1.221 (b) is applicable "only when the Office makes a material mistake which is apparent from Office records.... Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. [1]

The request for corrected publication, received on February 17, 2010, was not timely filed under 37 CFR 1.221(b).

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in

[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239, Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

§ 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

A guide for filing a request for a Pre-Grant Publication, such as a request for republication, may be found on the link below:

http://www.uspto.gov/patents/process/file/efs/guidance/index.jsp

http://www.uspto.gov/ebc/portal/efs/pgpub_quickstart.pdf

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system, as a "Pre-Grant Publication".

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709.

Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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BERENATO & WHITE, LLC
6550 ROCK SPRING DRIVE
SUITE 240
BETHESDA MD 20817

MAILED

FEB 08 2011

OFFICE OF PETITIONS

In re Application of
William H. S. Rampen et al.
Application No. 11/285,382
Patent No. 7,793,496
Filed: November 22, 2005
Attorney Docket No. **8411.021**

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) 272-2783.

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions

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

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FEB 28 2011

OFFICE OF PETITIONS

In re Application of :
JUNG, Edward K. Y. et al. :
Application No. 11/285,500 : DECISION ON PETITION
Filed: November 22, 2005 : TO WITHDRAW
Attorney Docket No. **QQ1-0047US** : 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 previously changed. 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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MCCARTER & ENGLISH, LLP HARTFORD
CITYPLACE I
185 ASYLUM STREET
HARTFORD, CT 06103

MAILED
MAY 06 2011
OFFICE OF PETITIONS

In re Patent No. 7,263,159 :
Issue Date: August 28, 2007 :
Application No. 11/285,572 : ON PETITION
Filed: November 21, 2005 :
Attorney Docket No. 97343.00067 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28, filed April 18, 2011.

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

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

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

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

Alicia Kelley-Collier
Petitions Examiner
Office of Petitions

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EMBARCADERO CORPORATE CENTER
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JAN 26 2011

OFFICE OF PETITIONS

In re Application of	:	
Kordus et al.	:	
Application No. 11/285,595	:	DECISION ON PETITION
Filed: November 22, 2005	:	
Attorney Docket No. AGTE 1015 US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 28, 2010 and December 24, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the final Office action mailed, June 26, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on September 27, 2009. A Notice of Abandonment was mailed February 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 Request for Continued Examination (RCE) and fee of $405.00 and the submission required by 37 CFR 1.114; (2) the petition fee of $810.00 (previously submitted December 24, 2010); and (3) a proper statement of unintentional delay.

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

This matter is being referred to Technology Center AU 2811 for processing of the Request for Continued Examination under 37 CFR 1.114 and the Amendment filed April 26, 2010.

Joan Olszewski
Petitions Examiner
Office of Petitions

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MINNEAPOLIS, MN 55402

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JAN 3 1 2011

OFFICE OF PETITIONS

In re Application of :
Stephen J. MILLER :
Application No. 11/285,607 : DECISION ON PETITION
Filed: November 21, 2005 : UNDER 37 CFR 1.137(b)
Attorney Docket No. **70205,0016USD1** :

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, January 26, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on April 27, 2009.

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

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

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

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 Monica A. Graves at (571) 272-7253.

This application is being referred to Technology Center AU 1797 for appropriate action by the Examiner in the normal course of business on the reply received August 12, 2010.

Thurman K. Page
Petitions Examiner
Office of Petitions

cc: **E. JOSEPH GESS**
MERCHANT & GOULD, PC
225 REINEKERS LANE, SUITE 560
ALEXANDRIA, VA 22314

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CHEVRON CORPORATION
P.O. BOX 6006
SAN RAMON CA 94583-0806

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SEP 24 2010
OFFICE OF PETITIONS

In re Application of :
Stephen J. MILLER :
Application No. 11/285,631 : DECISION ON PETITION
Filed: November 21, 2005 :
Attorney Docket No. G-0143A :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed July 28, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, January 22, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on April 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 an amendment; (2) the petition fee of $1620; and (3) an adequate statement of unintentional delay.

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

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that

such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

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

This application is being referred to Technology Center AU 1797 for appropriate action by the Examiner in the normal course of business.

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

cc: E. JOSEPH GESS
MERCHANT & GOULD PC
225 REINEKERS LANE
SUITE 560
ALEXANDRIA VA 22314

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JUN 20 2011

OFFICE OF PETITIONS

In re Application of :
Babek KHAMENIAN :
Application No. 11/285,711 : DECISIO ON PETITION
Filed: November 21, 2005 :
Attorney Docket No. 135/085 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 20, 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 September 30, 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 December 31, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $405.00, and the submission required by 37 CFR 1.114; (2) the petition fee of $810.00; and (3) a proper statement of unintentional delay. Accordingly, the reply to the final Office action of September 30, 2008 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 3752 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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AUG 29 2011

OFFICE OF PETITIONS

In re Application of :
Naveen K. Jain et al :
Application No. 11/285,748 : DECISION ON REQUEST FOR REFUND
Filed: November 22, 2005 :
Attorney Docket No. 50130.01USU1 :

This is a decision on the Request For Refund filed July 25, 2011.

The request is **DISMISSED**.

Applicant files the above request for refund and states that "Applicant respectfully requests a refund pursuant to 37 C.F.R. § 1.26. In particular, on July 20, 2011, Applicant submitted fees in the amount of $1,110.00 (Fee Code 1253, three-month extension of time fees). Actually, pursuant to 37 C.F.R. § 1.27 (small entity in this application previously established and is maintained), a fee of only $555.00 (Fee Code 2253, three-month extension of time fees for small entity) was owed, Therefore, Applicant is entitled to a refund of $555.00."

However, a review of Office finance records show that the large entity portion of the three-month extension fee ($1,110.00) submitted on July 20, 2011, was adjusted to reflect that at small entity status ($555.00) on accounting date of July 28, 2011.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208.

/KOC/.
Karen Creasy
Petitions Examiner
Office of Petitions

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601 W RIVERSIDE
SUITE 1400
SPOKANE, WA 99201

In re Application of :
COHEN, Alexander J. et al. :
Application No. 11/285,753 : DECISION ON PETITION
Filed: November 22, 2005 : TO WITHDRAW
Attorney Docket No. **QQ1- 0068US** : 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 26, 2011.

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

A review of the file record indicates that the address has been changed. 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/
Petitions Examiner
Office of Petitions

cc: **MARGARET ANDERSON**
106 E. 6TH STREET, SUITE 900
AUSTIN TX 78701

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PATTERSON THUENTE CHRISTENSEN PEDERSEN, P.A.
4800 IDS CENTER
80 SOUTH 8TH STREET
MINNEAPOLIS MN 55402-2100

In re Patent No. 7,717,507	:	DECISION ON REQUEST
Toda, et al.	:	FOR
Issue Date: May 18, 2010	:	RECONSIDERATION OF
Application No. 11/285,770	:	PATENT TERM ADJUSTMENT
Filed: November 22, 2005	:	and
Atty Docket No. 2418.88US01	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the "Patent Term Adjustment Letter of Candor and Good Faith", filed on June 2, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be reviewed for accuracy.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one hundred and ninety-five (195) days is **GRANTED to the extent indicated herein.**

On April 28, 2010, a Determination of Patent Term Adjustment under 35 U.S.C. 154(b) was mailed indicating that the patent term adjustment to date was 341 days. On June 2, 2010, patentees submitted the instant comment. Patentees disclose that patentee believes that the patent term adjustment indicated in the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) mailed April 28, 2010, may be longer than appropriate. Specifically, patentees state:

> The attention of the Office is directed to the Patent Term Adjustment reported by the Office for the instant case. The reported PTA of 213 days is thought by Applicant to be at least 128 days longer than appropriate, due to Applicant's submission of the Supplemental Information Disclosure Statement on May 20, 2008 and due to Applicant's

submission of a Petition under 37 CFR 1.183 and Request to Correct Assignee on December 7, 2009.

Excerpt from "Patent Term Adjustment Letter of Candor and Good Faith", filed on June 2, 2010, *p. 1.*

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

> (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.

Patentees' argument is well-taken. On May 20, 2008, patentees' submitted a supplemental reply or paper in the form of a Supplemental Information Disclosure Statement (IDS) after filing a reply to the non-final Office action on April 24, 2008. The record does not support a conclusion that the examiner expressly requested the filing of the IDS. Further, a review of the IDS, filed May 20, 2008, reveals that patentees did not include a statement under 37 CFR 1.704(d).[1] Thus, patentees failed to

---

[1] Pursuant to 37 CFR § 1.704(d):

> A paper containing only an information disclosure statement in compliance with §§ 1.97 and 1.98 will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under paragraphs (c)(6), (c)(8), (c)(9), or (c)(10) of this section if it is accompanied by a statement that each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in § 1.56(c) more than thirty days prior to the filing of the information disclosure statement. This thirty-day period is not extendable.

engage in reasonable efforts to conclude prosecution of the application. Accordingly, the period of adjustment should have been reduced by 26 days pursuant to 37 CFR 1.704(c)(8), counting the number of days beginning on the day after the date the initial reply was filed, April 25, 2008, and ending on the date that the IDS was filed, May 20,2 008. Accordingly, a period of reduction of 26 days is being entered.

Further, it is concluded that a reduction to the patent term adjustment of 120 days for the filing of a Petition under 37 CFR 1.183 and Request to Correct Assignee on December 7, 2009, is warranted. The reductions to the patent term adjustment were properly entered pursuant to 37 CFR 1.704(c)(10).

37 CFR 1.704(c)(10) provides:

> 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;

In this instance, it is undisputed that patentee filed the Petition under 37 CFR 1.183 and Request to Correct Assignee after the mailing of the notice of allowance. It is noted that the period of reduction to the patent term adjustment for the filing of the Petition under 37 CFR 1.183 and Request to Correct Assignee is 130 days, beginning on December 7, 2009--the date the Petition under 37 CFR 1.183 and Request to Correct Assignee, ending on the date the response to the request was mailed, April 15, 2010. Pursuant to 37 CFR 1.704(c)(10), the period of reduction actually entered cannot exceed four months or 120 days. Accordingly, a period of reduction of 120 days will be entered.

In view thereof, the revised patent term adjustment is **one hundred and ninety-five (195) days** (442 days of Office delay - 247 days of applicant delay).

Deposit account 16-0631 will be charged $200.00 for the petition fee required by 37 CFR 1.18(e). No additional fees are due.

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

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

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one hundred and ninety-five (195)** days.

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

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,717,507 B2

DATED : May 18, 2010

INVENTOR(S) : Toda 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 (341) days

Delete the phrase "by 341 days" and insert – by 195 days--

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P.O. BOX 828
BLOOMFIELD HILLS MI 48303

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AUG 04 2010

OFFICE OF PETITIONS

In re Application of	:	
Koochesfahani et al.	:	
Application No. 11/285783	:	ON PETITION
Filing Date: 11/22/2005	:	
Attorney Docket Number:	:	
6550-000114	:	

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 March 12, 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 June 13, 2009.

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

It is noted that Applicant filed a three (3) month extension of time with the petition. Applicant is advised that an extension of time is only available to extend the period to reply to an Office action during the extendable period. Once the reply period, including the maximum extendable period, has lapsed, the application becomes abandoned (as of the day after the reply was due). No extensions of time are available.

A refund of the extension of time fee has been credited to Petitioner's deposit account as authorized in the RCE Transmittal.

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

This application is being referred to Technology Center AU 2886 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

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Date Mailed :February 28, 2011

Patent No. :7870147
Inventor(s) :David R. Bailey, et al
Issued :January 11, 2011
Title :QUERY REVISION USING KNOWN HIGHLY-RANKED QUERIES

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 U.S. Application data is printed on the face of the patent where appropriate and as a rule, the first sentence of the specification" and/or any amendments thereto, is used for printing data claimed under 35 USC 120. Since the first sentence of the specification does not refer to the additional information as reflected on applicants request correction is not in order here under Rule 1.322.

In view of the forgoing your request in this matter is hereby denied. Any inquiries concerning this communication should be directed to Ms. Angela Green at (703) 756-1541.

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

Mary Diggs, Supervisor
Decisions & Certificates
of Correction Branch
(703) 756-1580 or (703) 1541-1541

Lawrence T.Lu
Fish & Richardson PC.
P.O. Box 1022

/arg

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MAILED
JUL 19 2011
OFFICE OF PETITIONS

In re Patent No. 7,870,147 :
Bailey et al. : DECISION ON REQUEST FOR
Issue Date: January 11, 2011 : RECONSIDERATION OF
Application No. 11/285,814 : PATENT TERM ADJUSTMENT
Filed: November 22, 2005 :
Attorney Docket No. 16113-1113001 :

This is a decision on the petition filed on March 11, 2011, which is also 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 (1,026) days.

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

BACKGROUND

On January 11, 2011, the application matured into U.S. Patent No. 7,870,147, with a revised patent term adjustment of 899 days. On March 11, 2011, patentee timely submitted this request for reconsideration of patent term adjustment (with required fee), asserting that the correct number of days of Patent Term Adjustment is 1,026. Patentee maintains that the Office

incorrectly calculated Office delay pursuant to 37 CFR 1.702(b). Patentee contends that the Office erred in subtracting from the "B delay" a period of time that was not "consumed by continued examination of the application." Specifically, Patentee argues that (after the filing of the request for continued examination) the Office mailed a Notice of Allowance on September 7, 2010, thereby closing examination of the application on that date. Thus, Patentees argue no continued examination took place during the 127 day period from September 7, 2010 (the mailing date of the Notice of Allowance) until January 11, 2011 (the date the patent was issued). As such, Patentee maintains that the "B delay" should include the 127 days and be increased from 255 to 382 days. Patentee concludes that the correct patent term adjustment is 1,026 days (the sum of 718 days of "A delay" and 382 days of "B delay" minus 48 days of overlap between "A delay" and "B delay").

RELEVANT STATUTE AND REGULATIONS

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

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

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

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

Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance

of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application, but not including:

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

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

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

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

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

OPINION

Patentee's arguments have been considered, but not found persuasive. The Office calculated the period of "B delay" pursuant to 37 CFR 1.702(b) as 255 days based on the application having been filed under 35 U.S.C. 111(a) on November 22, 2005 and the patent not having issued as of the day after the three year date, November 23, 2008, and a request for continued examination under 132(b) having been first filed on August 5, 2009. In other words, the 127-day period from the date of mailing of the notice of allowance on September 7, 2010 to the date of issuance of the patent was not included in the "B delay." The entire period beginning on the date of filing of the RCE, August 5, 2009 and ending on the date of issuance of the patent was not included in the "B delay."

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

371(b) or (f) in an international application and ending on the date a patent was issued, but not including the number of days in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued.

Further, counting the period of time excluded from the "B delay" for the filing of a request for continued examination under 35 U.S.C. 132(b), from the date on which the request for continued examination is filed to the date the patent is issued is proper. Patentee does not dispute that time consumed by continued examination of an application under 35 U.S.C. 132(b) is properly excluded and that the calculation of the excluded period begins on the date of filing of the request for continued examination. At issue is what further processing or examination beyond the date of filing of the request for continued examination is not any time consumed by continued examination of the application under 35 U.S.C. 132(b). The USPTO indicated in September of 2000 in the final rule to implement the patent term adjustment provisions of the AIPA that once a request for continued examination under 35 U.S.C. 132(b) and 37 CFR 1.114 is filed in an application, any further processing or examination of the application, including granting of a patent, is by virtue of the continued examination given to the application under 35 U.S.C. 132(b) and CFR 1.114. See *Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term*, 65 Fed. Reg. 56366, 56376 (Sept. 18, 2000) (response to comment 8). Thus, the excluded period begins with the filing of the request for continued examination and ends with the issuance of the patent.

Patentee's argument that the period of time after the issuance of a notice of allowance on a request for continued examination is not "any time consumed by continued examination requested by the applicant under section 132(b)" within the meaning of 35 U.S.C. 154(b)(1)(B)(i) is not availing. This limitation is not supported by the statutory 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, 139, 88 U.S.P.Q.2d, 1538 (D.D.C. 2008), because the clock for

calculating the 20-year patent term begins to run on the filing date, and not on the day the patent is actually granted, some of the effective term of a patent is consumed by the time it takes to prosecute the application. To mitigate this effect, the statute, inter alia, grants adjustments of patent term whenever the patent prosecution takes more than three years, regardless of the reason. The time consumed by prosecution of the application includes every day the application is pending before the Office from the actual filing date of the application in the United States until the date of issuance of the patent. The time it takes to prosecute the application ends not with the mailing of the notice of allowance, but with the issuance of the patent.

Thus, not including "any time consumed by" means not including any days used to prosecute the application as specified in clauses (i)-(ii). 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. Webster's 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).

In this instance, a request for continued examination was first filed on August 5, 2009, and the patent issued by virtue of that request on January 11, 2011. Pursuant to 35 U.S.C. 154(b)(1)(B)(i), the period beginning on August 5, 2009 ending on January 11, 2011 is not included in calculating Office delay.

CONCLUSION

In view thereof, it is concluded that the patent term adjustment of 899 days indicated on the patent is correct.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110803

DATE : August 03, 2011

TO SPE OF : ART UNIT 2164

SUBJECT : Request for Certificate of Correction on Patent No.: 7870147

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:

Applicant filed two requests for certificate of correction, one on 2/11/2011 and the other one on 3/10/2011. Both are approved because the submitted corrections do not change the scope of the invention.

/CHARLES RONES/
Supervisory Patent Examiner.Art Unit 2164

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MAILED
OCT 03 2011
OFFICE OF PETITIONS

In re Patent No. 7,870,147 : FINAL AGENCY DECISION
Bailey et al. : ON REQUEST FOR
Issue Date: January 11, 2011 : RECONSIDERATION OF
Application No. 11/285,814 : PATENT TERM ADJUSTMENT
Filed: November 22, 2005 :
Attorney Docket No. 16113-1113001 :

This is a decision on the request for reconsideration of decision on petition dated July 19, 2011 filed September 19, 2011, requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand twenty-six (1,026) days.

The request for reconsideration is granted to the extent that the determination has been reconsidered; however, the request for reconsideration of patent term adjustment is **DENIED** with respect to making any change in the patent adjustment determination under 35 U.S.C. § 154(b) of 899 days. This decision may be viewed as a final agency action within the meaning of 5 U.S.C 704 and for purposes of seeking judicial review. See MPEP § 1002.02(b).

BACKGROUND

On January 11, 2011, the application matured into U.S. Patent No. 7,870,147, with a revised patent term adjustment of 899 days. Patentees argued that 127 additional days of patent term adjustment for B delay accrued, as the Office incorrectly considered these days as consumed by the request for continued examination[1]. By decision mailed July 19, 2011, the petition was dismissed.

RELEVANT STATUTE AND REGULATIONS

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

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

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

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[1] Patentee argues that (after the filing of the request for continued examination) the Office mailed a Notice of Allowance on September 7, 2010, thereby closing examination of the application on that date. Thus, Patentees argue no continued examination took place during the 127 day period from September 7, 2010 (the mailing date of the Notice of Allowance) until January 11, 2011 (the date the patent was issued). As such, Patentee maintains that the "B delay" should include the 127 days and be increased from 255 to 382 days. Patentee concludes that the correct patent term adjustment is 1,026 days (the sum of 718 days of "A delay" and 382 days of "B delay" minus 48 days of overlap between "A delay" and "B delay").

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

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

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

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

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

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

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

OPINION

Preliminarily, it is acknowledged that patentee states that the decision in Abbott Biotherapeutics Corp. v. Kappos will likely settle the legal issue that is central to the present petition. However, the Office will not hold this decision in abeyance pending the decision in Abbott.

Consideration now turns to the merits. Patentee raises no new arguments on petition. The decision is affirmed that the "B delay" of 255 days entered by the Office is correct.

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

371(b) or (f) in an international application and ending on the date a patent was issued, but not including the number of days in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued.

Further, counting the period of time excluded from the "B delay" for the filing of a request for continued examination under 35 U.S.C. 132(b), from the date on which the request for continued examination is filed to the date the patent is issued is proper. Patentee does not dispute that time consumed by continued examination of an application under 35 U.S.C. 132(b) is properly excluded and that the calculation of the excluded period begins on the date of filing of the request for continued examination. At issue is what further processing or examination beyond the date of filing of the request for continued examination is not any time consumed by continued examination of the application under 35 U.S.C. 132(b). The USPTO indicated in September of 2000 in the final rule to implement the patent term adjustment provisions of the AIPA that once a request for continued examination under 35 U.S.C. 132(b) and 37 CFR 1.114 is filed in an application, any further processing or examination of the application, including granting of a patent, is by virtue of the continued examination given to the application under 35 U.S.C. 132(b) and CFR 1.114. See *Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term*, 65 Fed. Reg. 56366, 56376 (Sept. 18, 2000) (response to comment 8). Thus, the excluded period begins with the filing of the request for continued examination and ends with the issuance of the patent.

Patentee's argument that the period of time after the issuance of a notice of allowance on a request for continued examination is not "any time consumed by continued examination requested by the applicant under section 132(b)" within the meaning of 35 U.S.C. 154(b)(1)(B)(i) is not availing. This limitation is not supported by the statutory 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, 139, 88 U.S.P.Q.2d, 1538 (D.D.C. 2008), because the clock for

calculating the 20-year patent term begins to run on the filing date, and not on the day the patent is actually granted, some of the effective term of a patent is consumed by the time it takes to prosecute the application. To mitigate this effect, the statute, inter alia, grants adjustments of patent term whenever the patent prosecution takes more than three years, regardless of the reason. The time consumed by prosecution of the application includes every day the application is pending before the Office from the actual filing date of the application in the United States until the date of issuance of the patent. The time it takes to prosecute the application ends not with the mailing of the notice of allowance, but with the issuance of the patent.

Thus, not including "any time consumed by" means not including any days used to prosecute the application as specified in clauses (i)-(ii). 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. Webster's 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).

In this instance, a request for continued examination was first filed on August 5, 2009, and the patent issued by virtue of that request on January 11, 2011. Pursuant to 35 U.S.C. 154(b)(1)(B)(i), the period beginning on August 5, 2009 ending on January 11, 2011 is not included in calculating Office delay.

CONCLUSION

The request for reconsideration of the revised patent term adjustment is denied. This decision may be viewed as a final agency action. See MPEP § 1002.02(b).

Telephone inquiries specific to this matter should be directed to Senior Petitions Attorney, Nancy Johnson at (571) 272-3219.

Anthony Knight
Director
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 04/12/11

TO SPE OF : ART UNIT 2435

SUBJECT : Request for Certificate of Correction for Appl. No 11/285,882 .: 7779275

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? yes

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: _____

_____

_____

_____

/Kimyen Vu/
SPE
Art Unit 2435

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OFFICE OF PETITIONS

KLARQUIST SPARKMAN LLP
121 SW SALMON ST
SUITE 1600
PORTLAND OR 97204

In re Patent No. 7,648,471 : DECISION ON
Barry Reginal Hobson : REQUEST FOR RECONSIDERATION
Application No. 11/285,890 : of PATENT TERM ADJUSTMENT
Issue Date: January 19, 2010 : and
Filed: November 22, 2005 : NOTICE OF INTENT TO ISSUE
Attorney Docket No. 6589-72677-01 : CERTIFICATE OF CORRECTION

This is a decision on the "REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF WYETH v. KAMPOS, No. 2009-1120 (Fed. Cir., Jan. 7, 2010)", filed July 14, 2010, requesting that the patent term adjustment indicated on the above-identified patent be corrected.

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

On January 19, 2010, the instant application matured into U.S. Patent No. 7,648,471 with a patent term adjustment of four hundred forty-five (445) days. Patentees timely filed the instant application for patent term adjustment on July 14, 2010. The Office determined a patent term adjustment of 445 days based upon 506 days of Office delay pursuant to 37 CFR 1.703(a)(1), reduced by thirty-two (32) days and twenty-nine (29) days of Applicant delay pursuant to 37 CFR 1.704(b).

Patentees are correct that the amount of days over 36 months from the filing date of the application until the filing of the RCE was not included in the "B" delay period. The over three year period began on November 23, 2008 and ended on August 10, 2009 (the RCE was filed on August 11, 2009), and is 261 days. See 35 U.S.C. 154(b)(1)(B)(i). As such, the "B" delay period is 261 days.

In view thereof, the correct number of days of patent term adjustment is 706 days (767 days (506 days of "A"' delay and 261 days of "B" delay) of PTO delay, reduced by 61 (32+29) days of Applicant delay).

The $200.00 fee set forth in 37 CFR 1.18(e) has been charged to Deposit Account No. 02-4550, as authorized.

The application is being forwarded to the Certificate of Corrections Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **seven hundred six (706)** days.

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

Anthony Knight
Director
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,648,471 B2

DATED : **January 19, 2010**

INVENTOR(S) : Hobson

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 445 days.

Delete the phrase "by 445 days" and insert – by 706 days--

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HITACHI C/O WAGNER BLECHER LLP
123 WESTRIDGE DRIVE
WATSONVILLE CA 95076

MAILED
APR 12 2011
OFFICE OF PETITIONS

In re Application of :
Hideki Zaitsu :
Application No. 11/285,904 : DECISION ON PETITION
Filed: November 22, 2005 :
Attorney Docket No. **HJP920040157US1** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 03, 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 June 29, 2010. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is September 30, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810, and the submission required by 37 CFR 1.114; (2) the petition fee of $1620; and (3) a proper statement of unintentional delay. Accordingly, the reply to the final Office Action of June 29, 2010 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 Tredelle Jackson at (571) 272-2783.

This application is being referred to Technology Center AU 2627 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Ramesh Krishnamurthy
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:	590282000400		
Application Number:	11/285,921	Filing Date (or 371(b) or (f) Date):	November 23, 2005
Patent Number:	7,782,324	Issue Date:	August 24, 2010
First Named Inventor:	Haggai GOLDFARB		
Title:	NON-HIERARCHICAL UNCHAINED KINEMATIC RIGGING TECHNIQUE AND SYSTEM FOR ANIMATION		

PATENTEE HEREBY REQUESTS RECALCULATION OF THE PATENT TERM ADJUSTMENT (PTA) UNDER 35 USC 154(b) INDICATED ON THE ABOVE-IDENTIFIED PATENT. T HE 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	September 8, 2010
Name (Print/Typed)	Norman R. Klivans	Registration Number	33,003

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

[X] *Total of 1 Form(s) are submitted.

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MORRISON & FOERSTER LLP
755 PAGE MILL RD
PALO ALTO, CA 94304-1018

Mail Date: 09/15/2010

Applicant	: Haggai Goldfarb	: DECISION ON REQUEST FOR
Patent Number	: 7782324	: RECALCULATION of PATENT
Issue Date	: 08/24/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/285,921	: OF WYETH
Filed	: 11/23/2005	:
		:

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.

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Hana Verny
Peters, Verny, Jones, Schmitt & Aston LLP
Suite 230
425 Sherman Avenue
Palo Alto CA 94306

MAILED

DEC 19 2011

OFFICE OF PETITIONS

In re Application of	:	
Akihiko Kusanagi et al.	:	
Application No. 11/285,928	:	DECISION ON
Filed: November 23, 2005	:	PETITION TO WITHDRAW
Attorney Docket No. 3831.11-2	:	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 23, 2011 and December 1, 2011.

The request is **NOT APPROVED**.

A review of the file record indicates that Steven M. Colby does not have power of attorney in this patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable. Attorneys in this application were appointed separately by registration numbers.

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

The request to change the correspondence address should be that of the: (1) the first named signing inventor; or (2) an assignee of the entire interest under 37 C.F.R 3.71. If an assignee has intervened in this application then a Statement under 37 CFR 3.73(b), or a copy of the actual assignment must be submitted with a renewed request.

The assignments show that an assignment was recorded on June 11, 2007 in a parent application associated with this application. If a renewed request is filed, then a copy of the assignment or a statement under 37 CFR 3.73(b) should also be submitted.

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

/Kimberly Inabinet/
Kimberly Inabinet
Petitions Examiner
Office of Petitions

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HOWARD BELL
SUNSTONE TECHNOLOGY INC.
141 MEADOWBROOK DRIVE
PRINCETON NJ 08540

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AUG 24 2011

OFFICE OF PETITIONS

In re Application of :
Valery Victor Belov et al. :
Application No. 11/285,936 : DECISION ON PETITION
Filed: November 23, 2005 :
Attorney Docket No. :

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

The petition is **GRANTED**.

The application became abandoned for failure to properly reply in a timely manner to the non-final Office action mailed April 1, 2010, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on July 2, 2010. A Notice of Abandonment was mailed on October 13, 2010.

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

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

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

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

This application is being referred to Technology Center AU 1785 for appropriate action by the Examiner in the normal course of business on the reply received August 12, 2011.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Joseph A. Parisi
J.A. Linderman & Co., PLLC
3190 Fairview Park Drive., Suite 480
Falls Church, VA 22042

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SEP 12 2011

OFFICE OF PETITIONS

TASER INTERNATIONAL, INC.
17800 N. 85TH STREET
SCOTTSDALE AZ 85255-9603

In re Application of :
Magne H. NERHEIM : ON PETITION
Application No. 11/285,945 :
Filed: November 23, 2005 :
Atty. Docket No.: 101.00167

This is in response to the petition under 37 CFR 1.137(b), filed May 18, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply to the Notice of Allowance and Fee(s) Due, mailed January 21, 2011, which set a period for reply of three (3) months. The application became abandoned April 22, 2011. A Notice of Abandonment was mailed May 6, 2011.

The petition satisfies the conditions for revival pursuant to 37 CFR 1.137(b) by including (1) a reply in the form of payment of the issue and publication fees in accordance with the Notice mailed January 21, 2011, (2) a petition fee of $1620, and (3) a statement of unintentional delay. The reply to the Notice is accepted as being unintentionally delayed.

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

The application will be referred to Office of Data Management for further processing.

Ramesh Krishnamurthy

for Anthony Knight
Director
Office of Petitions

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MARSHALL, GERSTEIN & BORUN LLP
233 SOUTH WACKER DRIVE
6300 WILLIS TOWER
CHICAGO IL 60606-6357

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AUG 16 2010

OFFICE OF PETITIONS

In re Patent of Carroll et al.	:	DECISION ON REQUEST
Patent No. 7,601,698	:	FOR
Issue Date: October 13, 2009	:	RECONSIDERATION OF
Application No. 11/286,056	:	PATENT TERM ADJUSTMENT
Filed: November 22, 2005	:	and
Atty Docket No. 31127/43656A	:	NOTICE OF INTENT TO ISSUE
	:	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 three hundred seventy-four (374) days. The petition was timely filed within one month of the mailing of a Decision on Request for Recalculation of Patent Term Adjustment in View of Wyeth and Notice of Intent to Issue Certificate of Correction, mailed April 21, 2010.

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 seventy-four (374) days is **GRANTED to the extent indicated herein.**

Patentees assert the total period of adjustment is 374 days, which is the sum of 210 days of delay under 35 U.S.C. § 154(b)(1)(A) ("A Delay") and 324 days of delay under 35 U.S.C. § 154(b)(1)(B) ("B Delay") reduced by 160 days of applicant delay.

The Office concurs with patentees' assertions that the period of A delay is 210 days and the period of applicant delay is 160 days.

The Office does not concur with patentees' assertion that the period of B delay is 324 days. The period of B delay in this

case is 305 days. The maximum period of B Delay in this case is 325 days, which is the number of days beginning on November 23, 2008, the day after the date three years after the application's filing date, and ending on October 13, 2009, the date of issuance of the patent. As stated in 35 U.S.C. 154(b)(1)(B)(ii), B delay does not include "any time consumed by appellate review by the Board of Patent Appeals and Interferences." The period of B delay does not include the 20 day period beginning on May 13, 2009, the date the Notice of Appeal was filed, and ending on June 1, 2009, the date the Notice of Allowance and Fee(s) Due was mailed. Excluding the 20 days consumed by appellate review results in a period of B delay of 305 days (325 - 20).

The correct patent term adjustment is 355 days, which is the sum of 210 days of A Delay and 305 days of B Delay reduced by 160 days of applicant delay.

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

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

The Office acknowledges receipt of the $200.00 fee 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 **three hundred fifty-five (355)** days.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,601,698 B2

DATED : **October 13, 2009** **DRAFT**

INVENTOR(S) : Carroll 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 356 days

Delete the phrase "by 356 days" and insert – by 355 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

MARSHALL, GERSTEIN & BORUN LLP
233 SOUTH WACKER DRIVE
6300 WILLIS TOWER
CHICAGO IL 60606-6357

MAILED
DEC 03 2010
OFFICE OF PETITIONS

In re Patent of Carroll et al.	: DECISION ON REQUEST
Patent No. 7,601,698	: FOR
Issue Date: October 13, 2009	: RECONSIDERATION OF
Application No. 11/286,056	: PATENT TERM ADJUSTMENT
Filed: November 22, 2005	: and
Atty Docket No. 31127/43656A	: NOTICE OF INTENT TO ISSUE
	: CERTIFICATE OF CORRECTION

This is a decision on the petition, filed September 15, 2010, requesting reconsideration of the August 16, 2010 decision on petition. Patentees request that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by three hundred seventy-four (374) days. The present petition was timely filed within one month of the mailing of the August 16, 2010 decision on petition.

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 seventy-four (374) days is **GRANTED to the extent indicated herein.**

Patentees assert the total period of adjustment is 374 days, which is the sum of 210 days of delay under 35 U.S.C. § 154(b)(1)(A) ("A Delay") and 324 days of delay under 35 U.S.C. § 154(b)(1)(B) ("B Delay") reduced by 160 days of applicant delay.

The Office concurs with patentees' assertions that the period of A delay is 210 days and the period of applicant delay is 160 days.

The Office does not concur with patentees' assertion that the period of B delay is 324 days. As stated in the August 16, 2010 decision, the period of B delay is 305 days. The maximum period of B Delay in this case is 325 days, which is the number of days beginning on November 23, 2008, the day after the date three years after the application's filing date, and ending on October 13, 2009, the date of issuance of the patent. As stated in 35 U.S.C. 154(b)(1)(B)(ii), B delay does not include "any time consumed by appellate review by the Board of Patent Appeals and Interferences." The period of B delay does not include the 20 day period beginning on May 13, 2009, the date the Notice of Appeal was filed, and ending on June 1, 2009, the date the Notice of Allowance and Fee(s) Due was mailed. Excluding the 20 days consumed by appellate review results in a period of B delay of 305 days (325 – 20).

Patentees argue that the application was before the examiner, not the board during the 20 day period in question, and therefore, no time was 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.

The Office has considered the arguments in the petition and concluded the phrase "time consumed by appellate review by the Board" in 35 U.S.C. § 154(b)(1)(B)(ii) begins when a notice of appeal is filed.

The phrase "appellate review by the Board" appears twice in 35 U.S.C. § 154(b). The fact the identical phrase is used in another location in the same statute is relevant because "identical words used in different parts of the same statute are ... presumed to have the same meaning." *IBP, Inc. v. Alvarez*, 546 U.S. 21, 34 (2005).

Pursuant to 35 U.S.C. § 154(b)(1)(C)(iii), successful "appellate review by the Board" will result in an adjustment for delay resulting from the appeal. The Office has interpreted 35 U.S.C. § 154(b)(1)(C)(iii) to provide for an adjustment based on delay beginning when a notice of appeal has been filed. 37 C.F.R. § 1.703(e) states, with emphasis added,

> The period of adjustment under § 1.702(e) is the sum of the number of days, if any, in the period *beginning on the date on which a notice of appeal to the Board of Patent Appeals and Interferences was filed* under 35 U.S.C. 134 and § 41.31 of this title and ending on the date of a final decision in favor of the applicant by the Board of Patent Appeals and Interferences or by a Federal court in an appeal under 35 U.S.C. 141 or a civil action under 35 U.S.C. 145.

The Office's interpretation of 35 U.S.C. § 154(b)(1)(C)(iii) is supported by language in 35 U.S.C. § 154(b) prior to passage of the Patent Term Guarantee Act of 1999, Pub. L. No. 106-113, § 4402, 113 Stat. 1501A-557. Prior to passage of the Patent Term Guarantee Act of 1999, 35 U.S.C. §§ 154(b)(2)-(3) stated, with emphasis added,

> Extension for *appellate review*. If the issue of a patent is delayed due to *appellate review* by the Board of Patent Appeals and Interferences or by a Federal court and the patent is

> issued pursuant to a decision in the review reversing an adverse determination of patentability, the term of the patent shall be extended for a period of time but in no case more than 5 years....
>
> The period of extension ... shall include any period *beginning on the date on which an appeal is filed under section 134 or 141 of this title*, or on which an action is commenced under section 145 of this title, and ending on the date of a final decision in favor of the applicant.

As shown by the language quoted above, the period of appellate review in the former version of 35 U.S.C. § 154(b) began when a notice of appeal was filed. When Congress passed the Patent Term Guarantee Act of 1999, Congress failed to take any action to indicate Congress wished to change the starting date for the period of "appellate review" from the date a notice of appeal is filed until the date the application file is transferred to the Board.

In view of the prior discussion, the Office has reasonably concluded the period of "appellate review by the Board" under 35 U.S.C. § 154(b)(1)(C)(iii) begins when a notice of appeal is filed. Since identical words or phrases in the same statute are presumed to have the same meaning, the Office asserts the period of "appellate review" under 35 U.S.C. § 154(b)(1)(B)(ii) also begins when a notice of appeal is filed. The Office recognizes the presumption the same word or phrase in a statue has the same meaning is rebuttable. *See Envtl. Def. v. Duke Energy Corp.*, 549 U.S. 561, 575-76 (2007). However, the context of each instance of the phrase in the statute at issue fails to clearly indicate Congress intended for the same phrase to have two different meanings.

The Office has considered the arguments in the petition and determined the petition fails to establish the provisions of 37 C.F.R. § 1.702(b)(4) are inconsistent with the provisions of 35 U.S.C. § 154(b)(1)(B)(ii). Pursuant to 37 C.F.R. § 1.702(b)(4), the time period excluded from delay under 37 C.F.R. § 1.702(b) begins when a notice of appeal is filed. In other words, the appellate review period excluded from the period of B Delay begins when a notice of appeal is filed.

In this case, pursuant to 37 C.F.R. § 1.703(b)(4), the period of B Delay does not include the 20 day period of appellate review which began when a notice of appeal was filed on May 13, 2009, and ended on June 1, 2009, when the Office mailed a Notice of Allowance. The Board did not reverse the examiner or remand the application back to the examiner. Instead, a Notice of Allowance under 35 U.S.C. 151 was mailed on June 1, 2009. This is the event that ended the period of appellate review, per the language of 37 C.F.R. § 1.703(b)(4). Therefore, the Office properly excluded 20 days from the period of B Delay as a result of time consumed by appellate review and the patent term adjustment is 355 days (210 days A delay + 325 days B-maximum delay – 20 days appellate period excluded – 160 days Applicant delay).

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, 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 previous 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 **three hundred fifty-five (355)** days.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,601,698 B2

DATED : **October 13, 2009** **DRAFT**

INVENTOR(S) : Carroll 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 20 days

Delete the phrase "by 20 days" and insert – by 355 days--

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KELLER LAPUMA WOODARD PC - IV
15154 Pinecrest Drive
Council Bluffs IA 51503

MAILED
SEP 21 2010
OFFICE OF PETITIONS

In re Application of
Edward K.Y. Jung et al.
Application No. 11/286,133
Filed: November 23, 2005
Attorney Docket No. **0605-002-005-000000**

DECISION ON PETITION

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

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of January 11, 2010. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). A three (3) months extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is July 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 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) 272-4584.

This application is being referred to Technology Center AU 1631 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

JoAnne Burke
Petitions Examiner
Office of Petitions

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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LADAS & PARRY LLP
1040 AVENUE OF THE AMERICAS
NEW YORK NY 10018-3738

MAILED
MAY 10 2011
OFFICE OF PETITIONS

In re Application of :
Francesca ROSELLA :
Application No. 11/286,200 : DECISION ON PETITION
Filed: November 22, 2005 :
Attorney Docket No. U0901230(3292-001P) :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 20, 2011, to revive the above-identified application.

The petition is **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 12, 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 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 a Request for Continued Examination (RCE) and fee of $ 405.00, and the submission required by 37 CFR 1.114; (2) the petition fee of $810.00; and (3) a proper statement of unintentional delay. Accordingly, the reply to the final Office action of January 12, 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 2617 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **FRANCESCA ROSELLA**
CUTECIRCUIT LTD., 144 SHOREDITCH HIGH STREET
LONDON, E1 6JE UNITED KINGDOM

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Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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APR 08 2011

OFFICE OF PETITIONS

BUSINESS OBJECTS AMERICAS; BUSINESS OBJECTS S.A.
SAP AMERICA, INC.; BUSINESS OBJECTS SOFTWARE LTD.
BUSINESS OBJECTS DATA INTEGRATION, INC.
777 6TH STREET NW, SUITE 1100, ATTN: B. GALLIANI
WASHINGTON DC 20001

In re Application of :
HUANG, et al :
Application No. 11/286,267 : DECISION ON PETITION
Filed: November 23, 2005 : TO WITHDRAW
Attorney Docket No. BOBJ-136/00US 304661-2265 : 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 17, 2011.

The request is **NOT APPROVED.**

The Office will either change the correspondence address of record to the most current address information provided for a new practitioner or law firm who has filed a proper power of attorney, 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, since the change of correspondence address is not that of a new practitioner or law firm who has filed a proper power of attorney in the Office, the request to withdraw from record cannot be approved.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/286,603	11/23/2005	Mahmoud H. Abd Elhamid	GP-306481	2332

65798 7590 09/01/2010

MILLER IP GROUP, PLC
GENERAL MOTORS CORPORATION
42690 WOODWARD AVENUE
SUITE 200
BLOOMFIELD HILLS, MI 48304

EXAMINER	
BARROW, AMANDA J	
ART UNIT	PAPER NUMBER
1795	

MAIL DATE	DELIVERY MODE
09/01/2010	PAPER

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

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

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

Mailed: SEP 01 2010

In re application of :
Elhamid : DECISION ON
Serial No. 11/286,603 : PETITION
Filed: November 23, 2005 :
For: WATER MANAGEMENT OF PEM FUEL CELL STACKS USING SURFACE ACTIVE AGENTS

This is a response to Applicant's Petition under 37 CFR 1.181 to review the objection to claims filed on June 23, 2010. In the Office Action mailed April 14, 2010, the Examiner objected to claims 5 and 14 for using trademarks but failing to accompany the trademarks with the generic terminology.

1.181 Petition to the Director.

(f) The mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings. Any petition under this part not filed within two months of the mailing date of the action or notice from which relief is requested may be dismissed as untimely, except as otherwise provided. This two-month period is not extendable.

DECISION

The Petition is **DISMISSED**.

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

MILLER IP GROUP, PLC
GENERAL MOTORS CORPORATION
42690 WOODWARD AVENUE
SUITE 200
BLOOMFIELD HILLS MI 48304

UNITED STATES PATENT AND TRADEMARK OFFICE

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Ekse Law Firm, PC
Water Fall Plaza
6116 S. Lyncrest Avenue, Suite 105
Sioux Falls SD 57108

MAILED

AUG 04 2010

OFFICE OF PETITIONS

In re Application of	:	
Gregory Johnson	:	
Application No.: 11/286618	:	DECISION ON
Filing or 371(c) Date: 11/23/2005	:	PETITION
Attorney Docket Number:	:	
30085	:	

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.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance and Issue Fee Due, mailed December 18, 2009. The Notice set a non-extendable three (3) month period for reply. No reply having been received, the application became abandoned March 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 payment of the issue fee; (2) the petition fee; and (3) a proper statement of unintentional delay.

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.

/Derek L. Woods/

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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KEN S . HANTMAN
3856 BRYON ROAD
HUNTINGDON VALLEY PA 19006

MAILED

MAR 03 2011

OFFICE OF PETITIONS

In re Application of :
Hantman et al. :
Application No. 11/286,650 : DECISION ON PETITION
Filed: November 23, 2005 :
Attorney Docket No. 1-37796 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 24, 2011 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; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item (2) and (3).

With regards to item (2),) petitioner has failed to submit the required small entity petition fee of $810.00.

The rules and statutory provisions governing the operations of the U.S. Patent and Trademark Office require payment of a fee on filing each petition to revive an abandoned application for patent based on unintentional delay. The petition in the above-identified application was not accompanied by payment of the required fee. **No consideration on the merits can be given to the petition until the required fee is received.**

With regards to item (3,) a grantable petition pursuant to 37 CFR 1.137(b) must include the required statement signed by:

(1) An attorney or agent of record appointed in compliance with § 1.34(b);

(2) A registered attorney or agent not of record who acts in a representative capacity under the provisions of § 1.34(a);
(3) The assignee of record of the entire interest, if there is an assignee of record of the entire interest;
(4) An assignee of record of an undivided part interest, and any assignee(s) of the remaining interest and any applicant retaining an interest, if there is an assignee of record of an undividing part interest; or
(5) All of the applicants (§§ 1.42.1.43 and 1.47) for patent, unless there is an assignee of record of the entire interest and such assignee has taken action in the application in accordance with §§ 3.71 and 3.73.

Petitioner has submitted a petition under 37 CFR 1.137(b), however, the petition as signed cannot be accepted since Ken S. Hantman is not authorized to sign the instant petition. Further, petitioner has not established that the person who signed the petition form is authorized to sign on behalf of the patentee(s), assignee, or other party of interest. The previous Statement under 37 CFR 3.73(b) filed August 31, 2009 is incomplete and cannot be accepted. The Statement filed August 31, 2009 is missing the reel and frame number. (form enclosed)

Consequently, the petition under 37 CFR 1.137(b), cannot be accepted at this time. A renewed petition with the proper signature as listed above is required.

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

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

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

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

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

Joan Olszewski
Petitions Examiner
Office of Petitions

Enclosure: PTO/SB/96

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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KEN S. HANTMAN
3856 BRYON ROAD
HUNTINGDON VALLEY, PA 19006

MAILED

APR 13 2011

OFFICE OF PETITIONS

In re Application of :
Ken S. Hantman, et al. :
Application No. 11/286,650 : DECISION ON PETITION
Filed: November 23, 2005 :
Attorney Docket No.: 1-37796 :

This is a decision in response to the renewed petition, filed March 22, 2011, to revive the above-identified application under the provisions of 37 CFR 1.137(b). Alternatively, a petition under the provisions of 37 CFR 1.137(a) was also filed.

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

The petition under 37 CFR 1.137(b) is **GRANTED**.

A review of the record discloses that the application became abandoned for failure to timely pay the issue and publication fees on or before January 3, 2011, as required by the Notice of Allowance and Fee(s) Due, mailed October 1, 2010, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on January 4, 2011. A Notice of Abandonment was mailed on January 14, 2011. On January 24, 2011, a petition under the provisions of 37 CFR 1.137(b) was filed; however, the petition was dismissed in a decision mailed March 3, 2011. In response, on March 22, 2011, applicant submitted a renewed the petition under 37 CFR 1.137(b), along with an alternative petition under the provisions of 37 CFR 1.137(a).

No consideration of the petition under 37 CFR 1.137(a) is given, since the showing of record is not sufficient to establish to the satisfaction of the Director that the delay was unavoidable within the meaning of 35 U.S.C. § 151 and 37 CFR 1.137(a).

The renewed petition satisfies the requirements of 37 CFR 1.137(b) in that petitioners have supplied (1) the reply in the form of the $755 issue fee and $300 publication fee; (2) the petition fee of $810; and (3) an adequate statement of unintentional delay.

The application is being referred to the Office of Data Management to be processed into a patent.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing as a patent should be directed to (571) 272-4200.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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MISSION/BSTZ
BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

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DEC 02 2011
OFFICE OF PETITIONS

In re Application of :
Roger Espasa, et al. :
Application No. 11/286,735 : ON PETITION
Filed: November 22, 2005 :
Attorney Docket No. P22312 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 14, 2011, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed June 5, 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 August 6, 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 $930, and the submission required by 37 CFR 1.114; (2) the petition fee of $1860; and (3) a proper statement of unintentional delay.

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must so notify the Office.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 2183 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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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KEITH E. TABER
8150 N CENTRAL EXPRESSWAY, SUITE 1150
DALLAS, TX 75206

MAILED
FEB 09 2011
OFFICE OF PETITIONS

In re Application of :
Probasco, Max A. :
Application No. 11/286,879 : ON PETITION
Filed: November 23, 2005 :
Attorney Docket No. 0831.0003 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed January 6, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the Issue Fee Transmittal with payment of the issue fee, (2) the petition fee of $810.00, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to the Office of Data Management for processing into a patent.

Liana Walsh
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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JAN 07 2011

OFFICE OF PETITIONS

GREENBERG TRAURIG (PHX)
INTELLECTUAL PROPERTY DEPARTMENT
2450 COLORADO AVENUE , SUITE 400E
SANTA MONICA CA 90404

In re Application of :
Stiles, et al. :
Application No. 11/286,888 : DECISION ON PETITION
Filed: 23 November, 2005 :
Attorney Docket No. 104972-013000 :

This is a decision on the petition filed pursuant to 37 C.F.R. §1.78(a)(3), 14 June, 2010, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed with the petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 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 23 November, 2005. Office records reflect that the new claim was presented in an amendment on 14 June, 2010. It appears that Petitioner has not submitted an application data sheet (ADS), and should do so at Petitioner's earliest opportunity.

The petition complies with the requirements of the regulations at 37 C.F.R. §1.78(a)(3) as to reference, surcharge and statement.

Application No. 11/286,888

The petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. §120 to the above-noted, prior-filed nonprovisional application satisfies the conditions of 37 C.F.R. §1.78(a)(3).

The petition is **granted**.

A corrected Filing Receipt, which includes the priority claim to the above-noted, prior-filed nonprovisional application, accompanies this decision on petition.

Petitioner is reminded that the granting of this petition and the mailing of a corrected Filing Receipt should not be viewed as an indication that a determination has been made that this application is entitled to claim benefit of the prior-filed application. A determination that applicant is entitled to claim benefit of the prior-filed application will be made by the Examiner prior to the mailing of a certificate of correction.

This application is released to Technology Center 2121 for consideration of the amendment by the Examiner.

Any inquiries concerning this decision 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.

Chris Bottorff
Supervisory Petitions Examiner
Office of Petitions

Enclosure: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/286,888	11/23/2005	2121	1930	104972-013000	28	5

CONFIRMATION NO. 2661

CORRECTED FILING RECEIPT

71373
GREENBERG TRAURIG (PHX)
INTELLECTUAL PROPERTY DEPARTMENT
2450 COLORADO AVENUE , SUITE 400E
SANTA MONICA, CA 90404

OC000000045235809

Date Mailed: 01/03/2011

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)

Robert W. Stiles, Holly Springs, NC;
Lars Hoffmann Berthelsen, Randers, DENMARK;
Ronald B. Robol, Sanford, NC;
Christopher R. Yahnker, Raliegh, NC;
Everett Cox, Sanford, NC;
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Gert Kjaer, Soenderborg, DENMARK;
Einar Kjartan Runarsson, Soenderborg, DENMARK;
Arne Fink Hansen, Graasten, DENMARK;
Alberto Morando, Soenderborg, DENMARK;
Florin Lungeanu, Graasten, DENMARK;
Nils-Ole Harvest, Nordborg, DENMARK;

Assignment For Published Patent Application

Pentair Water Pool and Spa, Inc., Moorpark, CA
Danfoss Low Power Drives, a division of Danfoss Drive A/S, Graasten, DENMARK

Power of Attorney: The patent practitioners associated with Customer Number 71373

Domestic Priority data as claimed by applicant

This application is a CIP of 10/926,513 08/26/2004

Foreign Applications

If Required, Foreign Filing License Granted: 12/29/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/286,888**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Control algorithm of variable speed pumping system

Preliminary Class

700

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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CUENOT, FORSYTHE & KIM, LLC
3319 STATE ROAD 7
SUITE 301
WELLINGTON, FL 33449

MAILED

OCT 06 2010

OFFICE OF PETITIONS

In re Application of :
Michael G. Blom :
Application No. 11/286,905 : DECISION ON PETITION
Filed: November 23, 2005 TO WITHDRAW FROM RECORD
Attorney Docket No. 8011-0005 :
:

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 2, 2010.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that on September 9, 2010 the power of attorney to Cuenot, Forsythe & Kim, LLC was revoked by the applicant of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272- 7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: LEWIS, BRISBOIS, BISGAARD & SMITH LLP
221 NORTH FIGUEROA STREET
SUITE 1200
LOS ANGELES CA 90012

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APR - 1 2011

MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP
300 S. WACKER DRIVE
32ND FLOOR
CHICAGO, IL 60606

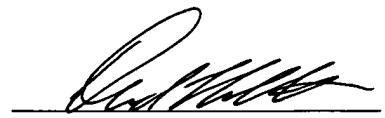
In re Application of	:	
HATER et al.	:	SUA SPONTE EXERCISE
Application No. 11/287,045	:	OF
Filed: November 22, 2005	:	SUPERVISORY REVIEW
For: LANDFILL INCLUDING HIGHLY	:	
PERMEABLE ZONES	:	

A sua sponte review of the above-noted application file has been conducted. As a result, it has been determined that certain errors on the part of the Office have occurred. In particular, it has been determined that the holding of abandonment following the Notice of Panel Decision from Pre-Appeal Brief Review of October 26, 2010 was premature. The purpose of this communication is to correct this error and clarify the record.

A review of the record reveals that a Notice of Panel Decision from Pre-Appeal Brief Review was mailed on October 26, 2010. In that notice it is specified that the time period for filing an appeal brief will be reset to be one month from mailing this decision, or the balance of the two-month time period running from the receipt of the notice of appeal, whichever is greater. Further, the time period for filing of the appeal brief is extendible under 37 CFR 1.136 based upon the mail date of this decision or the receipt date of the notice of appeal, as applicable. Any holding of abandonment by the examiner following the Notice of Panel Decision from Pre-Appeal Brief Review would not be proper until the time for filing an appeal brief had passed. Unfortunately, the application was prematurely held to be abandoned in the Notice of Abandonment mailed March 14, 2011.

In view of the fact that there is potential, with extensions of time, a six-moth period for which an applicant can file an appeal brief, the holding of abandonment on March 14, 2011 was improper and premature. Accordingly, the holding of abandonment mailed March 14, 2011 is hereby **VACATED**. The period for filing an appeal brief continues to run from the one month period set in the Notice of Panel Decision from Pre-Appeal Brief Review mailed October 26, 2010.

Inquiries related to this decision may be directed to Supervisory Patent Examiner David Bagnell at (571) 272-6999.



David Talbott, Director
Technology Center 3600
(571) 272-5150

DJB: 3/17/11

LM

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SPRINKLE IP LAW GROUP / ZIMMER
1301 W. 25TH STREET
SUITE 408
AUSTIN, TX 78705

MAILED

MAR 26 2012

OFFICE OF PETITIONS

In re Application of
David M. Hooper
Application No. 11/287,077
Filed: November 22, 2005
Attorney Docket No. ZIMM2160

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 25, 2012.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Sprinkle IP Law Group / Zimmer has been revoked by the assignee of the patent application on February 16, 2012. 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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WARN PARTNERS, P.C.
PO BOX 70098
ROCHESTER HILLS MI 48307

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APR 25 2011

OFFICE OF PETITIONS

In re Application of :
Douglas G. Hunter, et al. :
Application No. 11/287,099 :
Filed: November 23, 2005 :
Attorney Docket No. DKT 00072B (BWI-00065-CPA :

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-2991.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

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Foley & Lardner LLP
777 E Wisconsin Avenue
Milwaukee WI 53202-5306

MAILED

NOV 17 2010

OFFICE OF PETITIONS

In re Application of :
Brown, et al. :
Application No. 11/287,141 : ON APPLICATION FOR
Filed: November 23, 2005 : PATENT TERM ADJUSTMENT
Atty Docket No. 055188-0112 :

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT FOR PATENT APPLICATION UNDER 37 C.F.R. § 1.705(b), filed October 8, 2010. Applicants submit that the correct patent term adjustment to be indicated on the patent is one hundred forty-nine (149) days, not one hundred twenty (120) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentees are entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). This is true even in this instance where a request for continued examination (RCE) was filed. The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent or even the filing date of the request for continued examination is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicants must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b). This fee is required and will not be refunded.

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

---

[1] For example, if an applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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MAILED

OCT 15 2010

OFFICE OF PETITIONS

PAULY, DEVRIES SMITH & DEFFNER, L.L.C.
PLAZA VII-SUITE 3000
45 SOUTH SEVENTH STREET
MINNEAPOLIS MN 55402-1630

In re Application of	:	
Kirit Patel	:	
Application No. 11/287,164	:	DECISION ON PETITION
Filed: November 23, 2005	:	UNDER 37 CFR 1.313(c)
Attorney Docket No. 758.1604USU1	:	

This is a decision on the petition under 37 CFR 1.313(c), filed October 13, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on September 10, 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 1791 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed submissions.

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP
600 GALLERIA PARKWAY, S.E.
STE. 1500
ATLANTA GA 30339-5994

MAILED

DEC 03 2010

OFFICE OF PETITIONS

In re Application of :
Jar-Haur Wang et al :
Application No. 11/287,274 : DECISION ON PETITION
Filed: November 28, 2005 :
Attorney Docket No. 252222-1080 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 30, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The 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 final Office action mailed December 22, 2009, 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 2121 for appropriate action by the Examiner in the normal course of business on the reply received July 30, 2010.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 20110405

DATE : 03-25-11

TO SPE OF : ART UNIT 1723

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/287599 Patent No.: 7820022

CofC mailroom date: 03-02-11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Angela Green
Certificates of Correction Branch
(703) 756-1541

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

[X]	**Approved**	**All** changes apply.
☐	**Approved in Part**	Specify below which changes **do not** apply.
☐	**Denied**	State the reasons for denial below.

Comments: _____

SPE /Alexa D. Neckel/ **Art Unit** 1723

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

ROHM AND HAAS ELECTRONIC MATERIALS LLC
455 FOREST STREET
MARLBOROUGH, MA 01752

MAILED

SEP 27 2010

OFFICE OF PETITIONS

In re Application of :
Peter R. Levey, et al. :
Application No. 11/287,672 : DECISION ON PETITION
Filed: November 28, 2005 :
Attorney Docket No. 52124 :

This is a decision on the petition, filed August 13, 2010, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

This application was held abandoned for failure to reply to the non-final Office action mailed March 10, 2009, which set a one (1) month or thirty (30) day shortened statutory period for reply. A Notice of Abandonment was mailed on September 15, 2009.

Petitioner asserts that the Office action dated March 10, 2009 was not received.

A review of the written record indicates no irregularity in the mailing of the Office action, and, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. In this regard, the showing required to establish the failure to receive the Office action must consist of the following:

1. a statement from practitioner stating that the Office action was not received by the practitioner;

2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and

3. a copy of the docket record where the non-received Office action would have been entered 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 fails to satisfy all of the above-stated requirements.

Accordingly, absent the required evidence to establish non-receipt of the Office action of March 10, 2010, 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 $1620 petition fee.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

Any request for reconsideration of this decision should be filed within **TWO (2) MONTHS** from the mail date of this decision. *Note* 37 CFR 1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 CFR 1.181 to Withdraw the Holding of Abandonment."

Further correspondence with respect to this matter should be addressed as follows:

By Mail:
Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand:
U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By facsimile: **(571) 273-8300**
Attn: Office of Petitions

Telephone inquiries concerning this decision should be directed to April M. Wise at (571) 272-1642.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

ROHM AND HAAS ELECTRONIC MATERIALS LLC
455 FOREST STREET
MARLBOROUGH, MA 01752

MAILED

AUG 30 2011

OFFICE OF PETITIONS

In re Application of :
Peter R. Levey, et al. :
Application No. 11/287,672 : DECISION ON PETITION
Filed: November 28, 2005 :
Attorney Docket No. 52124 :

This is a decision on the renewed petition, filed August 4, 2011, which is being treated as a petition under 37 CFR 1.8(b), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the Office action of March 10, 2009, which set a one (1) month or thirty (3) day shortened statutory period for reply. Accordingly, a reply was due on or before April 10, 2009.

Petitioner states that a timely reply was mailed via certificate of transmission on March 20, 2009, which included the following papers: an election. Petitioner has submitted a copy of the previously mailed correspondence, which bears a certificate of mailing dated March 20, 2009, 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 Office action of March 10, 2009 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 August 4, 2011.

Telephone inquiries concerning this decision should be directed to April M. Wise at 571-272-1642. All other inquires concerning the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 1792 for appropriate action in the normal course of business on the reply received with petition.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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MAILED

OCT 05 2010

OFFICE OF PETITIONS

WOODCOCK WASHBURN LLP
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA PA 19104-2891

In re Application of
William R. Benfield
Application No. 11/287,697
Filed: November 28, 2005
Attorney Docket No. BENF0002

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 **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 Peter J. Knudsen on behalf of all attorneys of record who are associated with customer No. 23377. All attorneys/agents associated with the Customer Number 23377 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

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).

There is an outstanding Office action mailed May 26, 2010 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

April M. Wise
Petitions Examiner
Office of Petitions

cc: WILLIAM R. BENFIELD
9109 27TH AVENUE, NW
SEATTLE, WA 98117

cc: WILLIAM R. BENFIELD
DIVERSIFIED PHARMACEUTICAL INTERESTS, INC
PO BOX 15247
SEATTLE, EA 98115

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
11/287,697	11/28/2005	William R. Benfield	BENF-0002

CONFIRMATION NO. 2973

POWER OF ATTORNEY NOTICE

23377
WOODCOCK WASHBURN LLP
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA, PA 19104-2891

OC0000000043825130

Date Mailed: 10/04/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/27/2010.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/amwise/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

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MARSHALL & MELHORN, LLC
FOUR SEAGATE - EIGHTH FLOOR
TOLEDO OH 43604

MAILED

SEP 29 2011

OFFICE OF PETITIONS

In re Application of
Zia
Application No 11/287,831
Filed: November 28, 2005
Attorney Docket No. 1-16739

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 23, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of March 7, 2011. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). A three month extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is September 8, 2011. This decision precedes the mailing of a Notice of Abandonment.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $405.00, and the submission required by 37 CFR 1.114; (2) the petition fee of $810.00; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3215.

This application is being referred to Technology Center AU 1777 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Charlema Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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COLGATE-PALMOLIVE COMPANY
909 RIVER ROAD
PISCATAWAY NJ 08855

MAILED

NOV 02 2011

OFFICE OF PETITIONS

In re Application of :
SUBRAMANYAM et al. :
Application No. 11/287,930 : ON APPLICATION FOR
Filed: 11/28/2005 : PATENT TERM ADJUSTMENT
Attorney Docket No. 7164-00 :

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT PURSUANT TO 37 CFR § 1.705(b)" filed October 26, 2011. Applicants submit that the correct patent term adjustment to be indicated on the patent is 2032 days, not 782 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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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COLGATE-PALMOLIVE COMPANY
909 RIVER ROAD
PISCATAWAY NJ 08855

MAILED
JAN 18 2012
OFFICE OF PETITIONS

In re Patent No. 8,071,077	:	
SUBRAMANYAM et al.	:	DECISION ON REQUEST FOR
Issue Date: 12/06/2011	:	RECONSIDERATION OF PATENT
Application No. 11/287,930	:	TERM ADJUSTMENT
Filed: 11/28/2005	:	UNDER 37 CFR 1.705(d)
Attorney Docket No. 7164-00	:	

This is a decision on the petition under 37 CFR 1.705(d), filed January 11, 2012, 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 1,185 days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **DISMISSED.**

Patentees assert that they are entitled to approximately 1,103 days of patent term adjustment pursuant to 37 CFR 1.702(b) ("B delay"). The Office has considered patentees' argument but does not find it persuasive.

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the B delay period, the over three year period begins on November 29, 2008, and ends on August 11, 2010, the day before the RCE was filed, and is 621 days. See 35 U.S.C. 154(b)(1)(B)(i); 37 CFR 1.703(b)(1). Additionally, the Office reminds patentees that the period consumed by appellate review, whether successful or not, is excluded from the calculation of B delay. See 35 U.S.C. 154(b)(1)(B)(ii); 37 CFR 1.703(b)(4).

In this instance, the period consumed by appellate review is 450 days, beginning on the date on which the notice of appeal to the Board of Patent Appeals and Interferences was filed, October 23, 2008, and ending on the date of the last decision by the Board of Patent Appeals and Interferences, January 15, 2010. See 37 CFR 1.703(b)(4). Thus, B delay is 171 days (621 - 450).

Accordingly, the patent term adjustment is 953 days (782 days of A delay + 171 days of B delay + 0 days of C delay - 0 days of overlap - 0 days of applicant delay).

In view thereof, no change will be made in the revised determination of patent term adjustment at the time of the issuance of the patent.

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 37 CFR 1.136.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The Office will charge the Deposit Account the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the request for reconsideration of patent term adjustment under 37 CFR 1.705(d), as authorized. No additional fees are required.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20101001A

DATE : October 01, 2010

TO SPE OF : ART UNIT 1791

SUBJECT : Request for Certificate of Correction on Patent No.: 7,641,169

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:

/JOSEPH S DEL SOLE/
Supervisory Patent Examiner.Art Unit 1791

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : **9-9-10**

TO SPE OF : ART UNIT **1792**

SUBJECT : Request for Certificate of Correction for Appl. No.: **11288235** Patent No.: **7686890**

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: _____

_____

_____

/Barbara L. Gilliam/ **SPE** — **1710** **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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LITMAN LAW OFFICES, LTD.
PATENT LAW BUILDING
8955 CENTER STREET
MANASSAS VA 20110

MAILED

OCT 24 2011

OFFICE OF PETITIONS

In re Application of :
Carlos J. Johnson, et al. :
Application No. 11/288,329 : DECISION ON PETITION
Filed: November 29, 2005 :
Attorney Docket No. **26938.00** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 30, 2011, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue fee and publication fees on or before October 18, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed December 14, 2010. Accordingly, the date of abandonment of this application is July 16, 2010. The Notice of Abandonment was mailed October 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 issue fee of $755 and the publication fee of $300, (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Terri Johnson at (571) 272-2991.

This application is being referred to Office of Data Management for processing into a patent.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

Doc Code: PET.RELIEF
Document Description: Certification and Request for Japan Events 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):
11/288,336	
First Named Inventor:	Title of Invention:
Toshihisa NOZAWA	PLASMA PROCESSING APPARATUS AND PLASMA PROCESSING METHOD

APPLICANT/PATENTEE/REEXAMINATION PARTY HEREBY CERTIFIES AND REQUESTS THE FOLLOWING FOR THE ABOVE-IDENTIFIED APPLICATION/PATENT/REEXAMINATION PROCEEDING.

1. FOR PATENT APPLICATIONS AND REEXAMINATION PROCEEDINGS PENDING IN THE USPTO AS OF MARCH 11, 2011, IN WHICH A COMMUNICATION FROM THE USPTO IS SOUGHT TO BE REMAILED:

   a. One or more inventors, an assignee, or a correspondence address (for the application/proceeding) is in an area of Japan affected by the earthquake and/or tsunami of March 11, 2011.

   b. A reply or response to an Office action (final, non-final, or other), a notice of allowance, or other Office notice (hereinafter collectively referred to as "Office communication") is outstanding.

   c. The statutory or non-statutory time period set for response has not yet expired.

   d. Withdrawal and reissuance of the Office communication is requested.

   e. It is acknowledged that if this request is not made within sufficient time so that withdrawal and reissuance of the Office communication occur prior to expiration of the statutory or non-statutory time period (as permitted to be extended under 37 CFR 1.136(a), or as extended under 37 CFR 1.550(c) or 1.956), this request may not be granted.

   f. The need for the reissuance of the Office communication was due to the effects of the earthquake and/or tsunami of March 11, 2011.

   g. This request is being sent via EFS-Web or by mail directed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

2. FOR PATENTEES WHO WERE UNABLE TO TIMELY PAY A PATENT MAINTENANCE FEE DURING THE SIX-MONTH GRACE PERIOD FOLLOWING THE WINDOW TO PAY THE MAINTENANCE FEE:

   a. The original window of time to pay the maintenance fee without the surcharge required by 37 CFR 1.20(h) expired on or after March 11, 2011.

   b. The delay in paying the fee was due to the effects of the earthquake and/or tsunami of March 11, 2011.

   c. The USPTO is requested to *sua sponte* waive the surcharge in 37 CFR 1.20(h) for paying a maintenance fee during the six-month grace period following the window to pay the maintenance fee.

   d. This request and payment of the maintenance fee during the six-month grace period following the window to pay the maintenance fee is being mailed to: Director of the United States Patent and Trademark Office, Attn: Maintenance Fee, 2051 Jamieson Avenue, Suite 300, Alexandria, VA 22314; or being transmitted via facsimile to: 571-273-6500.

CERTIFICATION AND REQUEST FOR RELIEF DUE TO EVENTS OF MARCH 11, 2011, IN JAPAN (Page 2 of 2)

3. FOR PATENTEES WHO NEED TO FILE A PETITION TO ACCEPT A DELAYED MAINTENANCE FEE PAYMENT UNDER 37 CFR 1.378(c):

   a. The maintenance fee payment was required to have been paid after March 10, 2011.

   b. A petition under 37 CFR 1.378(c) (using USPTO form PTO/SB/66 – Petition to Accept Unintentionally Delayed Payment of Maintenance Fee in an Expired Patent (37 CFR 1.378(c))) is being promptly filed accompanied by the applicable maintenance fee payment (but not the surcharge under 37 CFR 1.20(i)).

   c. The delay in payment of the maintenance fee was due to the effects of the earthquake and/or tsunami of March 11, 2011.

   d. The USPTO is requested to *sua sponte* waive the surcharge in 37 CFR 1.20(i) for accepting a delayed maintenance fee payment.

   e. It is acknowledged that the petition to accept a delayed maintenance fee payment under 37 CFR 1.378(c) must be filed by March 11, 2012, in order to be entitled to a waiver of the surcharge under 37 CFR 1.20(i).

   f. It is acknowledged that the petition to accept a delayed maintenance fee payment under 37 CFR 1.378(c) must be filed within twenty-four months from the expiration date of the patent. *See* 35 U.S.C 41(c).

   g. This request and the petition to accept a delayed maintenance fee payment under 37 CFR 1.378(c) is being submitted via EFS-Web or by mail directed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

4. FOR NONPROVISIONAL PATENT APPLICATIONS FILED WITHOUT AN EXECUTED OATH OR DECLARATION OR PAYMENT OF THE BASIC FILING FEE, SEARCH FEE, AND/OR EXAMINATION FEE:

   a. The nonprovisional patent application was filed on or after March 11, 2011, and prior to April 12, 2011.

   b. The late filing of the oath or declaration or the basic filing fee, search fee, or examination fee was due to the effects of the earthquake and/or tsunami of March 11, 2011.

   c. The USPTO is requested to *sua sponte* waive the surcharge set forth in 37 CFR 1.16(f) for the late filing of the oath or declaration or basic filing fee, search fee, and/or examination fee.

   d. This request, together with the executed oath or declaration or the basic filing fee, search fee, or examination fee, as well as the reply to the Notice to File Missing Parts, is being submitted via EFS-Web or by mail directed to Mail Stop Missing Parts, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Signature	Date 3/28/11
Name (Print/Typed) Kevin M. McKinley	Practitioner Registration Number 43,794

***Note**: Signatures of all the inventors, § 1.41(b) applicants, or assignees of record of the entire interest or their representative(s), or reexamination requesters at the appeal stage are required in accordance with 37 CFR 1.33 and 11.18. Please see 37 CFR 1.4(d) for the form of the signature. If necessary, submit multiple forms for more than one signature, see below*.*

☐ *Total of 1 forms are submitted.

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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

APR 11 2011

OFFICE OF PETITIONS

In re Application of :
Toshihisa NOZAWA, et al. :
Application No.: 11/288,336 :
Filed: November 29, 2005 :
Attorney Docket No.: 281481US26CIP :

DECISION ON PETITION

This is a decision on the request filed March 28, 2011, seeking relief under the provisions of an announcement by the Under Secretary and Director of the United States Patent and Trademark Office on March 17, 2011, http://www.uspto.gov/patents/announce/japan_relief_2011mar17.pdf, providing relief to inventors and patent owners in areas affected by the earthquake and resulting tsunami of March 11, 2011.

The request for relief is **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 item(s) (1) in that there is no outstanding Office notice or action pending against this application. Therefore, as any relief sought by the requestor is not clear from the request, the request is dismissed.

It is noted that a Notice of Appeal has been filed on March 29, 2011.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.

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 FAX: (571) 273-8300

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-4914.

All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No.

FISH & RICHARDSON P.C.
PO BOX 1022
MINNEAPOLIS MN 55440-1022

MAILED

AUG 24 2010

OFFICE OF PETITIONS

In re Patent No. 7603619	: DECISION ON REQUEST
Alexandra Baugher	: FOR
Application Number: 11/288431	: RECONSIDERATION OF
Issue Date: 10/13/2009	: PATENT TERM ADJUSTMENT
Filing or 371(c) Date: 11/29/2005	: and
Atty Docket No.	: NOTICE OF INTENT TO ISSUE
16113-0670001	: CERTIFICATE OF CORRECTION

This is a decision on the "LETTER REGARDING PATENT TERM ADJUSTMENT," 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 seven hundred forty-seven (747) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by seven hundred forty-seven (747) days is **GRANTED**.

No fee is due with the subject request for reconsideration.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **seven hundred forty-seven (747)** 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 : 7,603,619 B2

DATED : **Oct. 13, 2009** **DRAFT**

INVENTOR(S) : Baugher

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 429 days.

Delete the phrase "by 429 days" and insert – by 747 days--

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No.

COOK, ALEX, McFARRON, MANZO, CUMMINGS
& MEHLER, LTD.
SUITE 2850
200 WEST ADAMS STREET
CHICAGO IL 60606

MAILED
FEB 07 2011
OFFICE OF PETITIONS

In re Patent No. 7,502,040	: DECISION ON REQUEST FOR
Kawae et al.	: RECONSIDERATION OF
Issue Date: March 10, 2009	: PATENT TERM ADJUSTMENT
Application No. 11/288,696	: and
Filed: November 29, 2005	: NOTICE OF INTENT TO ISSUE
Atty Docket No.: 0553-0465	: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on May 8, 2009, 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 seven hundred and forty-one (741) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by seven hundred and forty-one (741) days is **GRANTED**.

The $200.00 fee set forth in 37 C.F.R. § 1.18(e) will be charged to Deposit Account No. 50-1039 in due course, as authorized on the fourth page of this petition. No additional fees are required.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **seven hundred and forty-one (741) 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 : 7,502,040 B2

DATED : **March 10, 2009** **DRAFT**

INVENTOR(S) : **Kawae 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 640 days

Delete the phrase "by 640 days" and insert – by 741 days --

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/288,792	11/29/2005	Kazuyuki Hirata	242268	7727

23460 7590 01/31/2011

LEYDIG VOIT & MAYER, LTD
TWO PRUDENTIAL PLAZA, SUITE 4900
180 NORTH STETSON AVENUE
CHICAGO, IL 60601-6731

EXAMINER	
MCDOWELL, BRIAN E	

ART UNIT	PAPER NUMBER
1624	

NOTIFICATION DATE	DELIVERY MODE
01/31/2011	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

Chgpatent@leydig.com

UNITED STATES PATENT AND TRADEMARK OFFICE

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JAN 3 1 2011

LEYDIG, VOIT & MAYER, LTD
Two Prudential Plaza
180 North Stetson Ave., Suite 4900
Chicago, Illinois 60601-6731

In re Application of: Hirata et al	:	
Serial No: 11/288,792	:	DECISION
Filed: November 29, 2005	:	ON
Attorney Docket No: 242268	:	PETITION
Title: Nitrogen-containing Fused Ring Compounds and Use Thereof	:	

This letter is in response to the Petition under 37 C.F.R. 1.181 filed on September 3, 2010.

BACKGROUND

Applicants filed a claim set on November 29, 2005 which was subjected to a restriction requirement on May 8, 2008. The examiner set forth ten Groups and a election of a single disclosed species is further required within the elected Group and a single disease is required for Groups II-IV and VI. The examiner also indicated further restriction may be required for any elected Group.

On June 9, 2008, Applicants elected with traverse the claims of Group II and compound of Example 3 as the single species. Applicants indicated claims 4-6, 19-22, 31, 32, 62, 63 and 65 of Group II read on the elected species. Applicants further elected with traverse hperuricemia as the single disease.

On August 18, 2008, a FAOM was mailed. Examiner maintained the restriction and made it Final.

On November 18, 2008, applicants filed a response and amended the claims. Applicants added new claims 81-90. Applicants pointed out that claims 81-86 read on the elected invention.

On January 23, a final Office action was mailed. On June 23, 2009, a Notice of Appeal and a pre-appeal conference were filed. The examiner re-opened prosecution on September 18, 2009. Applicants responded on December 18, 2009.

On March 5, 2010, a final Office action was mailed. Claims 20-22, 31, 32 and 81-86 were under examination. The examiner indicated that if applicant desires to pursue the non-elected subject matter, applicant is invited to file a continuation or divisional application. The full scope of the claims with respect to elected group II was searched only. The examiner invited applicants to amend the claims accordingly.

On June 16, 2010, applicants filed after final response. Applicants amended claims 20-22 and 31 to delete the non-elected subject matter.

On June 28, 2010 a telephonic interview was held and on July 7, 2010 an advisory action was issued. In the advisory action, the examiner indicated that the after final amendment will not be entered because they raise new issue that would require further consideration and/or search. The interview summary shows that examiner indicated that claims drawn to compounds of formula 2 would be allowable upon minor changes via an examiner's amendment and that the application would be in condition for allowance after said changes and cancellation of withdrawn claims. The examiner also clarified that if applicant wanted to pursue withdrawn claims eligible for rejoinder, then an RCE would need to be filed since prosecution on the merits is closed.

On September 3, 2010, a Notice of Appeal and a pre-appeal conference request were filed. Applicants also filed instant petition concurrently, requesting:

(a) enter the claim amendment set forth in the "Reply to Office action" dated June 16,2010,

(b) withdrawn the rejection of claims 20-22, 31, 32 and 81-86, as set forth in the Office action dated March 5, 2010, and the advisory action dated July 7, 2010,

(c) withdrawn the restriction requirement and rejoin and examine method claims 43,44, 47, 50, 70, 78, 80, and 87-90, which are dependent on product claims that have been indicated as allowable in the advisory action dated July 7, 2010.

DISCUSSION

Prosecution history and petition have been carefully reviewed.

MPEP 821.04(b):

> Amendments submitted after final rejection are governed by 37 CFR 1.116. When all claims to the elected product are in condition for allowance, all process claims eligible for rejoinder (see MPEP § 821.04) must be considered for patentability.
>
> If an amendment after final rejection that otherwise complies with the requirements of 37 CFR 1.116 would place all the elected product claim(s) in condition for allowance and thereby require rejoinder of process claims that raise new issues requiring further consideration (e.g., issues under 35 U.S.C. 101 or 112, first paragraph), the amendment could be denied entry. *For example, if pending nonelected process claims depend from a finally rejected product claim, and the amendment (or affidavit or other evidence that could have been submitted earlier) submitted after final rejection, if entered, would put the product claim(s) in condition for allowance, entry of the amendment (or evidence*

submission) would not be required if it would raise new issues that would require further consideration, such as issues under 35 U.S.C. 101 or 112, first paragraph necessitated by rejoinder of previously nonelected process claims. (emphasis added)

Before mailing an advisory action in the above situation, it is recommended that applicant be called and given the opportunity to cancel the process claims to place the application in condition for allowance with the allowable product claims, or to file an RCE to continue prosecution of the process claims in the same application as the product claims.

In after final situations when no amendment or evidence is submitted, but applicant submits arguments that persuade the examiner that all the product claims are allowable, in effect the final rejection of the product claims is not sustainable, and any rejection of the rejoined process claims must be done in a new Office action. If the process claims would be rejected, applicant may be called before mailing a new Office action and given the opportunity to cancel the process claims and to place the application in condition for allowance with the allowable product claims. If a new Office action is prepared indicating the allowability of the product claim and including a new rejection of the process claims, the provisions of MPEP § 706.07 govern the propriety of making the Office action final.

Form paragraph 8.21.04 should be included in any requirement for restriction between a product and a process of making or process of using the product. See MPEP § 806.05(f) and § 806.05(h).

The amendments after final were pretty extensive. The review reveals that the examiner did call applicants to suggest the additional changes, etc, prior to sending out the advisory action and applicants chose not to file an RCE or cancel the method claims. The examiner followed the guidance provided by the MPEP.

DECISION

The petition is **DENIED** for the reasons set forth above.

This application is being forwarded to examiner for further action.

Should there be any questions about this decision, please contact Supervisory Patent Examiner Cecilia Tsang, by letter addressed to Director, Technology Center 1600, at the address listed above, or by telephone at 571-272-0562 or by facsimile sent to the general Office facsimile number, 571-273-8300.

Remy Yucel
Director, Technology Center 1600

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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.
11/288,792	11/29/2005	Kazuyuki Hirata	242268	7727

23460 7590 11/23/2011

LEYDIG VOIT & MAYER, LTD
TWO PRUDENTIAL PLAZA, SUITE 4900
180 NORTH STETSON AVENUE
CHICAGO, IL 60601-6731

EXAMINER	
MCDOWELL, BRIAN E	

ART UNIT	PAPER NUMBER
1624	

NOTIFICATION DATE	DELIVERY MODE
11/23/2011	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):

Chgpatent@leydig.com

UNITED STATES PATENT AND TRADEMARK OFFICE

NOV 2 3 2011

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

John Kilyk, Jr.
LEYDIG VOIT & MAYER, LTD
TWO PRUDENTIAL PLAZA, SUITE 4900
180 NORTH STETSON AVENUE
CHICAGO IL 60601-6731

In re Application of	:
Hirata	:Decision on Petition
Serial No.: 11/288,792	:
Filed : 29 November 2005	:
Attorney Docket No.: 242268	:

This letter is in response to the renewed petition under 37 C.F.R. 1.181 filed on 28 February 2011 requesting reconsideration of the petition decision mailed 31 January 2011.

BACKGROUND

A summary of the prosecution history can be found in the petition decision mailed 31 January 2011. That decision denied the petition which had been filed on 3 September 2010, under 37 CFR 1.181 requesting entry of an amendment after final and rejoinder to process claims.

Following the filing of the first petition, but prior to its decision, an Appeal Brief was filed on 17 December 2010.

On 23 February, a notice of non-compliant or non-responsive amendment was mailed, stating that the appeal brief filed 17 December 2010 was inappropriate since the issue to be reviewed, the examiner's denial to enter the final amendment filed 16 June 2010 is a petitionable matter.

On 18 November 2011, this petition was brought to the deciding official's attention. The delay in acting upon this petition is regretted.

DISCUSSION

The file history and petition have been considered carefully. The petition requests to have the amendment filed on 16 June 2010 entered after final rejection.

37 CFR 1.116 governs the entry of amendments after final rejection.

The 16 June 2010 amendment was timely under 37 CFR 1.116 in that it was filed four months after the final Office action, with a one month extension of time fee paid and it was filed prior to an action closing prosecution. The amendment after final, if entered, would cancel claims 7-18 and 23-30. Cancellation of claims is permitted by 37 CFR 1.1116(b)(1).

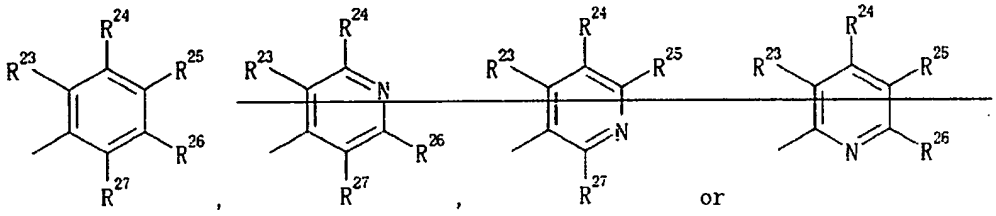
The after final amendment proposed no changes with respect to claims 44, 70, 78 and 81-90. Entry of this type of amendment after final is permitted by 37 CFR 1.116.

Amendments to the claims may be entered after final if they present rejected claims in better form for consideration upon appeal, see 37 CFR 1.116(b)(2). The after final amendment proposed three kinds of changes to claims 20-22, 31-32, 43, 47, 50 and 80.

First, the proposed amendment deleted alternative limitations in the Markush claims under examination. For example, Claim 21, the Y variable was amended by

(a) removing the "CS" option from variable Y, such that Y must be –CO-,
(b) removing the nitrogen atom as an option for X1, such that X1 must now be CR4 and
(c) deleting 3 of the four options for ring A' as follows:

ring A' is



Comparable amendments were proposed for Markush claims 20 and 22. These types of amendments are in keeping with 37 CFR 1.116(b)(2) because, upon entry, they would narrow the scope of the claim and reduce issues for appeal.

Second, the amendment removed chemical compounds from Claim 31, an exemplary portion show below:

(5) (2,3-dihydrobenzo[1,4]oxazin-4-yl)-(4-hydroxy-3,5-diiodophenyl)-methanone,

(6) (3,5-difluoro-4-hydroxyphenyl)-(2,3-dihydrobenzo[1,4]oxazin-4-yl)-methanone,

(7) (2,3-dihydrobenzo[1,4]oxazin-4-yl)-(4-hydroxy-3,5-dimethylphenyl)-methanone,

~~(8) (3,5-dichloro-4-hydroxyphenyl) (2,3-dihydrobenzo[1,4]thiazin-4-yl) methanone,~~

~~(9) (3,5-dichloro-4-hydroxyphenyl) (1-oxo-2,3-dihydro-1H-1λ⁴-benzo[1,4]thiazin-4-yl) methanone,~~

~~(10) (3,5-dichloro-4-hydroxyphenyl) (1,1-dioxo-2,3-dihydro-1H-1λ⁶-benzo[1,4]thiazin-4-yl) methanone,~~

This type of amendment in keeping with 37 CFR 1.116(b)(2) as it would narrow the scope of the claims and reduce issues for appeal.

Third, the amendment proposed correcting claim dependency to be consistent with remainder of the claim set. See for example, this amendment to claim 32:

> 32. (Currently Amended) A pharmaceutical composition comprising a compound of any one of claims ~~7, 11, 15, 20-23, 27,~~ 20-22 and 31 or a pharmaceutically acceptable salt thereof.

Comparable amendments were set forth to correct the dependency of claims 43, 50 and 80. This type of amendment in keeping with 37 CFR 1.116(b)(2) as it would narrow the scope of the claims and reduce issues for appeal. For these reasons, the amendment filed 16 June 2010 will be entered.

Finally, it is noted that the notice of non-compliant or non-responsive amendment mailed 23 February 2011 was prepared by the Technology Center, and not the Board of Appeal and Interferences, which has sole responsibility for determining whether appeal briefs comply with 37 CFR 41.37. See the guidance provided in MPEP 1205.3.

DECISION

The petition filed under 37 CFR 1.181 on 28 February 2011 is **GRANTED**.

The amendment filed 16 June 2010 has been entered and prosecution re-opened to consider this amendment. The notice of non-compliant or non-responsive amendment mailed 23 February 2011 is vacated.

The application will be forwarded to the examiner for consideration of the claims as amended on 16 June 2011 and for preparation of an Office action on the merits consistent with this decision.

In view of the extensive delays in prosecution for this instant application, should the product claims, as amended on 16 June 2010 be found in condition for allowance, the process claims will be rejoined for examination on the merits in accordance with MPEP 821.04(b).

Should there be any questions regarding this decision, please contact Quality Assurance Specialist Julie Burke, by mail addressed to Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at (571) 272-0512 or by Official Fax at 703-272-8300.

Remy Yucel
Director, Technology Center 1600

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UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/289,065	11/29/2005	Colin Leonard Bird	GB920040070US1	5769

35525 7590 08/13/2010

IBM CORP (YA)
C/O YEE & ASSOCIATES PC
P.O. BOX 802333
DALLAS, TX 75380

EXAMINER	
KUDDUS, DANIEL A	

ART UNIT	PAPER NUMBER
2164	

NOTIFICATION DATE	DELIVERY MODE
08/13/2010	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):

ptonotifs@yeeiplaw.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

Wayne P. Bailey
IBM Corp (YA)
c/o YEE & Associates PC
P.O. Box 802333
Dallas, Texas 75380

In re Application of:
BIRD et al.
Application No. 11/289,065
Filed: November 29, 2005
For: METHOD AND APPARATUS FOR MANAGING FEEDBACK IN A GRO

DECISION ON PETITION UNDER 37 C.F.R. § 1.181

This is a decision on the petition, filed on 17 June 2009, under 37 CFR § 1.181 to review the Examiner's objection to claim 27 and the specification for failure to provide antecedent basis for the claimed terminology.

The petition is **GRANTED**.

37 C.F.R. § 1.77(b) states:

> The specification should include the following sections in order:
>
> (1) Title of the invention, which may be accompanied by an introductory portion stating the name, citizenship, and residence of the applicant (unless included in the application data sheet).
> (2) Cross-reference to related applications (unless included in the application data sheet).
> (3) Statement regarding federally sponsored research or development.
> (4) The names of the parties to a joint research agreement.
> (5) Reference to a "Sequence Listing," a table, or a computer program listing appendix submitted on a compact disc and an incorporation-by-reference of the material on the compact disc (see § 1.52(e)(5)). The total number of compact discs including duplicates and the files on each compact disc shall be specified.
> (6) Background of the invention.
> (7) Brief summary of the invention.
> (8) Brief description of the several views of the drawing.
> (9) Detailed description of the invention.
> (10) A claim or claims.
> (11) Abstract of the disclosure.
> (12) "Sequence Listing," if on paper (see §§ 1.821 through 1.825).

A review of the specification indicates that pages 26 and 27 (i.e., original claim 27) do mention the terminology "a computer product ... computer readable medium"; thus, the terminology "a computer product ... computer readable medium" should not be objected pursuant to 37 CFR § 1.77(b). A further review of the application indicates that the terms "a computer product" and "computer readable medium" are not described in any detail. The examiner can use the broadest reasonable interpretation of the claim when applying prior art and determining statutory/non-statutory subject matter.

Accordingly, the petition is **GRANTED.**

It is noted that a Reply Brief has been filed on 27 July 2010. The application has been forwarded to the Examiner of record to consider the Reply Brief.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 01/08/11

TO SPE OF : ART UNIT 3766

SUBJECT : Request for Certificate of Correction for Appl. No.: 11289126 Patent No.: 7590449

CofC mailroom date: 12/28/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580
You can fax the Directors/SPE response to 571-273-3421

Note: **Should the changes to claim 12 be approved?**

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

☑ **Approved** — **All** changes apply.

☐ **Approved in Part** — Specify below which changes **do not** apply.

☐ **Denied** — State the reasons for denial below.

Comments: All changes are approved. However, the instructions for changing col. 1, line 38 should instead read: "On page 2, left column, line 38,..."

Carl H. Layno — 3766

SPE — **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 9/6/2011

TO SPE OF : ART UNIT 2889

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/289128 Patent No.: 7378792 B2

CofC mailroom date: 8/26/2011

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Note: _____

_____

Virginia Tolbert

Certificates of Correction Branch

(571) 272-0460

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

/Toan Ton/ — **SPE**

2889 — **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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SCHMEISER, OLSEN & WATTS
22 CENTURY HILL DRIVE, SUITE 302
LATHAM, NY 12110

MAILED

SEP 2 0 2010

OFFICE OF PETITIONS

In re Application of :
Gururaj S. BAYARI, *et al.* :
Application No. 11/289,339 : DECISION ON PETITION
Filed: November 29, 2005 : UNDER 37 CFR 1.181
Attorney Docket No. **IN920040019US1** :

This is a decision on the petition, filed May 25, 2010, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the non-final Office action mailed September 15, 2009, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on March 25, 2010.

Petitioner asserts that the Office action dated September 15, 2009 was not received.

A review of the written record indicates no irregularity in the mailing of the Office action, and, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. In this regard, the showing required to establish the failure to receive the Office action must consist of the following:

1. a statement from practitioner stating that the Office action was not received by the practitioner;

2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and

3. a copy of the docket record where the non-received Office action would have been entered had it been received and docketed must be attached to and referenced in the practitioner's statement.

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The petition is not signed by a registered patent attorney of record. However, in accordance with 37 CFR 1.34, the signature of Mr. James M. Syta 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. Syta desires to receive correspondence regarding this file, the appropriate power of attorney documents must be submitted.

The petition satisfies the above-stated requirements. Accordingly, the application was not abandoned in fact.

In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

Telephone inquiries regarding this decision should be directed to Monica A. Graves at (571) 272-7253.

This application is being referred to the Technology Center technical support staff of Art Unit 2192 for re-mailing the Office action of September 15, 2009. The period for reply will run from the mailing date of the Office action.

Thurman K. Page
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 08/27/10

TO SPE OF : ART UNIT 2477

SUBJECT : Request for Certificate of Correction for Appl. No.: 11289497 Patent No.: 7715384

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (C of C)
Randolph Square 9D40-D
Palm Location 7580

[redacted]

Lamonte

Newsome

Certificates of Correction Branch

703-756-1574

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: These changes do not affect the scope. They are correcting small grammatical errors in the claims of the patent.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

/Chirag Shah/ 2477

SPE

Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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PAUL S MADAN
MADAN & SRIRAM, PC
2603 AUGUSTA DRIVE, SUITE 700
HOUSTON TX 77057-5662

MAILED

MAR 14 2011

OFFICE OF PETITIONS

In re Application of :
Longo : DECISION ON PETITION
Application No. 11/289,591 :
Filed: November 16, 2005 :
Atty. Dkt. No.: LON-1001-US :

This decision is in response to the petition under 37 CFR 1.137(b), filed February 9, 2011.

The petition is **GRANTED**.

The application became abandoned February 7, 2010 for failure to timely submit a proper reply to the non-final Office action mailed November 6, 2009. The non-final Office action set a three month shortened statutory period of time for reply. No petition for extension of time under 37 CFR 1.136(a) was timely filed. Notice of Abandonment was mailed June 21, 2010.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by: (1) the required reply to the outstanding Office action or notice, unless previously filed; (2) the petition fee as set forth in 37 C.F.R. § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee set forth in 37 C.F.R. § 1.20(d)) required pursuant to 37 C.F.R. § 1.137(c).

The instant petition has been carefully reviewed and found in compliance with the requirements set forth above.

This application is being forwarded to Group Art Unit 3774 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

MAILED

JUL 19 2011

OFFICE OF PETITIONS

In re Patent No. 7,932,959	:	DECISION ON REQUEST
Bennett et al.	:	FOR RECONSIDERATION OF
Issue Date: April 26, 2011	:	PATENT TERM ADJUSTMENT
Application No. 11/289,848	:	AND
Filed: November 30, 2005	:	NOTICE OF INTENT TO ISSUE
Atty Docket No. 16874US01	:	CERTIFICATE OF CORRECTION

This is a decision on the "APPLICATION FOR RECONSIDERATION OF THE PATENT TERM ADJUSTMENT UNDER 35 U.S.C. § 154(b) INDICATED IN THE PATENT (37 CFR § 1.705(d))" filed June 22, 2011. Patentees request that the Patent Term Adjustment indicated on the face of the patent be corrected from one thousand ninety-four (1,094) days to one thousand one hundred sixty-seven (1,167) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein.** The patent term adjustment is corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand one hundred sixty-four (1164) days.

Receipt of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. No additional fees are required.

On April 26, 2011, the above-identified application matured into U.S. Patent No. 7,932,959. The instant request for reconsideration filed June 22, 2011 was timely filed within 2 months of the date the patent issued. See § 1.705(d). The Patent issued with a revised Patent Term Adjustment of 1,094 days. Patentee maintain that the period of adjustment for the Office taking in excess of three years to issue the patent should be 646 days - 0 days consumed by an appeal, or 646 days. Further, patentee disputes the reduction of 72 days, pursuant to

37 CFR 1.704(c)(10), for the filing of an application data sheet after the mailing of the notice of allowance.

Patentee's arguments have been considered, but not found entirely persuasive. The B delay period is properly calculated as 645 days, not 646 days. The period excluded for any time consumed by the filing of a request for continued examination begins on the date of filing of the RCE and ends on the date of issuance of the patent. This is consistent with the period excluded for any time consumed by appellate review as likewise such period begins on the date of filing of the notice of appeal. Patentees' statement that the date of filing of the notice of appeal is day 0 is incorrect.

A reduction for the filing of the declaration on February 14, 2011 after the mailing of the notice of allowance on December 23, 2010 is warranted. However, the reduction is being corrected from 72 days to 2 days. 37 CFR 1.704(c)(10) provides that the filing of papers after the mailing of the notice of allowance constitutes a failure to engage in reasonable efforts to conclude prosecution (processing or examination). It is undisputed that an application data sheet was filed after the mailing of the notice of allowance. 37 CFR 1.704(c)(10) does not exempt papers filed at the request of the examiner or other components of the Office. Further, filing of an application data sheet to correct a defective declaration after the mailing of the notice of allowance is not a circumstance that the Director has deemed not to cause substantial interference and delay in the patent issue process for which entry of a reduction is not warranted. See *Clarification of 37 CFR 1.704(c)(10) - Reduction of Patent Term Adjustment for Certain Types of Papers Filed After a Notice of Allowance*, 1247 OG 111 (June 26, 2001). It is further noted that the requirement for an application data sheet or a supplemental declaration was necessitated by patentees' failure to file a declaration in full compliance with 1.63. (As to inventor Bennett, the declaration did not include the city and foreign country of his residence and mailing address). Patentee was not precluded from earlier making the declaration in compliance with the rule by filing an application data sheet adding the city of Hroznetin and avoiding entry of a period of reduction. A review of the image file wrapper for this application reveals that this omission was noted in the record on January 18, 2006 by the Office. Likewise the BIB data sheet of record dated June 10, 2009 (of record with the non-

final Office action of June 10, 2009) notes that inventor Bennett's residence had not been provided.

However, the Office responded to the filing of the application data sheet with the entry of a BIB data sheet on February 15, 2011. Thus, the proper period of reduction pursuant to 37 CFR 1.704(c)(10) is 2 days, counting the number of days beginning on February 14, 2011 and ending on February 15, 2011.

The 2 day reduction is being entered and the 72 day reduction is being removed.

In view thereof, the correct patent term adjustment indicated on the patent is one thousand one hundred sixty-four (1,164) days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days, whichever is longer, from the mail date of this decision to respond.** No extensions of time will be granted under § 1.136.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by one thousand one hundred sixty-four (1164) 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: Draft Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,932,959 B2

DATED : **April 26, 2011** **DRAFT**

INVENTOR(S) : Bennett 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 1094 days

Delete the phrase "by 1094 days" and insert – by 1164 days--

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.
11/289,875	11/30/2005	Brenda Lanini	1305-030CIP	7180

32905 7590 08/02/2011
JONDLE & ASSOCIATES, P.C.
858 HAPPY CANYON ROAD, SUITE 230
CASTLE ROCK, CO 80108

EXAMINER	
ROBINSON, KEITH O NEAL	

ART UNIT	PAPER NUMBER
1638	

NOTIFICATION DATE	DELIVERY MODE
08/02/2011	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):

JondleOA@jondlelaw.com

UNITED STATES PATENT AND TRADEMARK OFFICE

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AUG 0 2 2011

JONDLE & ASSOCIATES P.C.
858 HAPPY CANYON ROAD SUITE 230
CASTLE ROCK CO 80108

In re Application of:
Lanini et al.
Serial No.: 11/289,875
Filed: November 30, 2005
Attorney Docket No.: **1305-030CIP**

: PETITION DECISION

This is in response to the renewed petition under 37 CFR § 1.59(b), filed July 28, 2011, to expunge information from the above identified application. This application has been allowed.

Petitioner requests that the material submitted to the Patent Office on October 23, 2007, May 11, 2009, and August 27, 2009 be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

The reasons set forth in this petition establishes to the satisfaction of the Director that expungement of the information is appropriate. The file entry for this document has been closed and as such the document is no longer publicly available, which is the IFW equivalent to removal of a paper document from a paper file wrapper.

Therefore, petitioner's petition is GRANTED.

Should there be any questions about this decision please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 571-273-8300.

/MC Seidel/
Marianne C. Seidel, Quality Assurance Specialist
Technology Center 1600

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Accenture Chicago 28164
Brinks Hofer Gilson & Leone
PO Box 10395
Chicago IL 60610

MAILED

MAY 09 2011

OFFICE OF PETITIONS

In re Patent No. 7,613,657	:	
Cesarini	:	DECISION UPON REMAND AND
Issue Date: November 03, 2009	:	RECONSIDERATION OF
Application No. 11/289,895	:	PATENT TERM ADJUSTMENT
Filed: November 30,2005	:	AND NOTICE OF INTENT
Attorney Docket No. 10022/716	:	TO ISSUE CERTIFICATE OF
Title: Reverse Rating System	:	CORRECTION
for Determining Duration of A	:	
Usage Transaction		

This is a decision following remand from the District Court for the District of Columbia regarding the patent term adjustment indicated on the above-identified patent. The Court remanded this matter to the U.S. Patent and Trademark Office for recalculation of the patent term adjustment in accordance with the decision in Wyeth & Elan Pharma Int'l Ltd. v. Kappos, 591 F.3d 1364 (Fed. Cir. 2010).

The patent term adjustment indicated on the above-identified patent has been recalculated as directed by the Court. The term of the above-identified patent is extended or adjusted by five hundred and sixty-four (564) days.

The application is being forwarded to the Certificates Branch for issuance of a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by five hundred and sixty-four (564) 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 : 7,613,657

DATED : November 3, 2009 **DRAFT**

INVENTOR(S) : Cesarini

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 441 days

Delete the phrase "by 441 days" and insert – by 564 days--

PTA/PTE Information | Patent Term Adjustment | Patent Term Extension

Application Number*: 11289895 Search | Explanation of PTA Calculation | Explanation of PTE Calculation

PTA Calculations for Application: 11289895

Application Filing Date	11/30/2005	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent	11/03/2009	Non-Overlapping USPTO Delays:	441
A Delays	441	PTO Manual Adjustment	123
B Delays	0	Applicant Delay (APPL)	0
C Delays	0	Total PTA (days)	564

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
78	05/03/2011		P028	Adjustment of PTA Calculation by PTO	123	0	
74	11/03/2009		PTAC	Patent Issue Date Used in PTA Calculation		0	
74.5	10/14/2009	11/30/2008	PTA36M	PTA 36 Months	0	0	
73	10/05/2009		EFDC	Export to Final Data Capture		0	
72	10/02/2009		D1935	Dispatch to FDC		0	
71	10/02/2009		PILS	Application Is Considered Ready for Issue		0	
70	09/24/2009		N084	Issue Fee Payment Verified		0	
69	09/24/2009		IFEE	Issue Fee Payment Received		0	
68	06/29/2009		EIDC	Export to Initial Data Capture		0	
67	06/25/2009		MN/=.	Mail Notice of Allowance		0	
66	06/20/2009		IREV	Issue Revision Completed		0	
65	06/20/2009		DVER	Document Verification		0	
64	06/20/2009		N/=.	Notice of Allowance Data Verification Completed		0	
63	06/20/2009		DOCK	Case Docketed to Examiner in GAU		0	
62	06/11/2009		CNTA	Allowability Notice		0	
56	04/07/2009		FWDX	Date Forwarded to Examiner		0	
54	04/07/2009		ABN9	Disposal for a RCE / CPA / R129		0	
59	04/03/2009		IDSC	Information Disclosure Statement considered		0	
57	04/03/2009		M844	Information Disclosure Statement (IDS) Filed		0	
55	04/03/2009		RCEX	Request for Continued Examination (RCE)		0	
53	04/03/2009		WIDS	Information Disclosure Statement (IDS) Filed		0	
52	04/03/2009		BRCE	Workflow - Request for RCE - Begin		0	
51	03/16/2009		FIDC	Finished Initial Data Capture		0	
50	01/19/2009		EIDC	Export to Initial Data Capture		0	
49	01/15/2009		MN/=.	Mail Notice of Allowance		0	
48	01/14/2009		N/=.	Notice of Allowance Data Verification Completed		0	
47	01/06/2009		IREV	Issue Revision Completed		0	
46	01/06/2009		DVER	Document Verification		0	
45	01/05/2009		CNTA	Allowability Notice		0	
42	11/17/2008		FWDX	Date Forwarded to Examiner		0	
41	11/11/2008		A...	Response after Non-Final Action		0	
40	08/11/2008		MCTNF	Mail Non-Final Rejection		0	
39	08/09/2008		CTNF	Non-Final Rejection		0	
35	08/05/2008		DOCK	Case Docketed to Examiner in GAU		0	
28	06/25/2008		DOCK	Case Docketed to Examiner in GAU		0	
27	06/19/2008		FWDX	Date Forwarded to Examiner		0	
26	05/15/2008		ELC.	Response to Election / Restriction Filed		0	
25	04/15/2008	01/30/2007	MCTRS	Mail Restriction Requirement	441	-1	
24	04/13/2008		CTRS	Restriction/Election Requirement		0	
23	11/27/2007		DOCK	Case Docketed to Examiner in GAU		0	
22	11/01/2007		DOCK	Case Docketed to Examiner in GAU		0	
21	10/10/2007		DOCK	Case Docketed to Examiner in GAU		0	
20	08/22/2007		DOCK	Case Docketed to Examiner in GAU		0	
19	05/31/2007		PG-ISSUE	PG-Pub Issue Notification		0	
18	12/29/2006		RQPR	Request for Foreign Priority (Priority Papers May Be Included)		0	
17	12/29/2006		RQPR	Request for Foreign Priority (Priority Papers May Be Included)		0	
16	12/04/2006		DOCK	Case Docketed to Examiner in GAU		0	
15	09/29/2006		DOCK	Case Docketed to Examiner in GAU		0	
32	08/04/2006		IDSC	Information Disclosure Statement considered		0	
14	08/04/2006		RCAP	Reference capture on IDS		0	
13.7	08/04/2006		M844	Information Disclosure Statement (IDS) Filed		0	
13	08/04/2006		WIDS	Information Disclosure Statement (IDS) Filed		0	
12	06/25/2006		DOCK	Case Docketed to Examiner in GAU		0	
11	06/13/2006		TSSCOMP	IFW TSS Processing by Tech Center Complete		0	

34	06/05/2006	IDSC	Information Disclosure Statement considered	0
10.7	06/05/2006	M844	Information Disclosure Statement (IDS) Filed	0
10	06/05/2006	WIDS	Information Disclosure Statement (IDS) Filed	0
9	06/05/2006	RQPR	Request for Foreign Priority (Priority Papers May Be Included)	0
8	06/05/2006	RQPR	Request for Foreign Priority (Priority Papers May Be Included)	0
33	02/21/2006	IDSC	Information Disclosure Statement considered	0
7.7	02/21/2006	M844	Information Disclosure Statement (IDS) Filed	0
7	02/21/2006	WIDS	Information Disclosure Statement (IDS) Filed	0
6	01/25/2006	A.PE	Preliminary Amendment	0
4	01/05/2006	COMP	Application Is Now Complete	0
5	01/04/2006	OIPE	Application Dispatched from OIPE	0
3	12/15/2005	L194	Cleared by OIPE CSR	0
2	12/07/2005	SCAN	IFW Scan & PACR Auto Security Review	0
1	11/30/2005	IEXX	Initial Exam Team nn	0

Export to: Excel

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:	IIW-049		
Application Number:	11/289,953-Conf. #7196	Filing Date (or 371(b) or (f) Date):	November 29, 2005
Patent Number:	7666532 B2	Issue Date:	February 23, 2010
First Named Inventor:	Koichiro MIYATA		
Title:	FUEL CELL SYSTEM AND METHOD OF STARTING FUEL CELL SYSTEM		

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	/Neslihan I. Doran/	Date	August 9, 2010
Name (Print/Typed)	Neslihan I. Doran	Registration Number	64,883

Note: *Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required in accordance with 37 CFR 1.33 and 11.18. Please see 37 CFR 1.4(d) for the form of the signature. If necessary, submit multiple forms if more than one signature, see below**.*

☐ *Total of 1 forms are submitted.

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being transmitted via the Office electronic filing system in accordance with § 1.6(a)(4).

Dated: August 9, 2010 Electronic Signature for Neslihan I. Doran: /Neslihan I. Doran/

UNITED STATES PATENT AND TRADEMARK OFFICE

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LAHIVE & COCKFIELD, LLP
FLOOR 30, SUITE 3000
ONE POST OFFICE SQUARE
BOSTON, MA 02109

Mail Date: 08/16/2010

Applicant	: Koichiro Miyata	: DECISION ON REQUEST FOR
Patent Number	: 7666532	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/289,953	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/29/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1021** 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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HAMILTON, BROOK, SMITH & REYNOLDS, P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD MA, 01742-9133

MAILED

DEC 27 2010

OFFICE OF PETITIONS

In re Application of	:	
Santin et al.	:	DECISION ON PETITION
Application No. 11/290,047	:	TO WITHDRAW
Filed: November 24, 2010	:	FROM RECORD
Attorney Docket No. 4602.1000-005	:	

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 24, 2010.

The request is **NOT APPROVED**.

Petitioner should note that 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.*

All future communications from the Office will be directed to above-listed address until otherwise properly notified by the applicant or a proper change of correspondence address have been submitted.

The request herein cannot be approved at this time since the correspondence address was not that of, the first named inventor or the assignee of record.

There is an outstanding non final Office action mailed September 16, 2010, that require a reply from the applicant.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-6059.

Alicia Kelley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD, MA 01742-9133

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MAR 01 2011

OFFICE OF PETITIONS

In re Application	:	
Santin et al.	:	DECISION ON PETITION
Application No. 11/290,047	:	TO WITHDRAW
Filed: November 30, 2005	:	FROM RECORD
Attorney Docket No. 110561-7	:	

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 December 30, 2010.

The request is **DISMISSED** because it is moot.

A review of the file record indicates that Hamilton Brook Smith & Reynolds, P.C. was revoked as attorney or agent of record by the assignee of record on January 10, 2011. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

All future communications from the Office will continue to be directed to the below-listed address of record until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-6059. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Alicia Kelley
Petitions Examiner
Office of Petitions

cc: NUTTER MCCLENNEN & FISH LLP
SEAPORT WEST
155 SEAPORT BOULEVARD
BOSTON, MA 02210-2604

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LAW FIRM OF DAN SHIFRIN
6208 DEVINNEY CIRCLE
ARVADA CO 80004

MAILED
FEB 08 2011
OFFICE OF PETITIONS

In re Application of :
KO, et al :
Application No. 11/290,097 : ON PETITION
Filed: November 30, 2005 :
Attorney Docket No. TUC920050108US1 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 31, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of September 9, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is December 10, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810, and the submission required by 37 CFR 1.114; (2) the petition fee of $1620; and (3) a statement of unintentional delay have been received.

This application is being referred to Technology Center AU 2181 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

/Diane C. Goodwyn/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

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MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

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NOV 09 2010

OFFICE OF PETITIONS

In re Application of :
Bennett et al. :
Application No. 11/290,297 : ON APPLICATION FOR
Filed: 11/30/2005 : PATENT TERM ADJUSTMENT
Atty Docket No. :
16869US01 :

This is in response to the "APPLICATION FOR RECONSIDERATION OF THE DETERMINATION OF PATENT TERM ADJUSTMENT UNDER 35 U.S.C. 154(b) ACCOMPANYING THE NOTICE OF ALLOWANCE (37 CFR § 1.705)," filed on August 25, 2010, which is treated as a petition under 37 CFR 1.705(b). Applicants submit that the patent term adjustment to be indicated on the patent should be increased from 835 days to 1325 days. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue the patent.

The instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office

can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

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1 For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Decision Date : October 7,2011

In re Application of :

Lee Swanstrom

Application No : 11290304

Filed : 29-Nov-2005

Attorney Docket No : USGINZ03781

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	11290304
Filing Date	29-Nov-2005
First Named Inventor	Lee Swanstrom
Art Unit	3773
Examiner Name	DARWIN EREZO
Attorney Docket Number	USGINZ03781
Title	System for treating gastroesophageal reflux disease

◉ 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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAR 19 2012

OFFICE OF PETITIONS

GEORGE R. REARDON
3356 STATION COURT
LAWRENCVILLE GA 30044

In re Application of :
Cantrell :
Application No. 11/290,357 : DECISION ON PETITION
Filed: November 30, 2005 :
Attorney Docket No. 04-0065 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 7, 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.

This above-identified application became abandoned for failure to timely file a reply to the non-final Office action mailed April 11, 2007. The non-final 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 July 12, 2007. A Notice of Abandonment was mailed on November 1, 2007.

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).

As to 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 periods (1) and (2).

As to Period (1):

The patent statute at 35 U.S.C. § 41(a)(7) authorizes the Director to revive an "unintentionally abandoned application." The legislative history of Public Law 97-247 reveals that the purpose of 35 U.S.C. § 41(a)(7) is to permit the Office to have more discretion than in 35 U.S.C. §§ 133 or 151 to revive abandoned applications in appropriate circumstances, but places a limit on this discretion, stating that "[u]nder this section a petition accompanied by either a fee of $500 or a fee of $50 would not be granted where the abandonment or the failure to pay the fee for issuing the patent was intentional as opposed to being unintentional or unavoidable." [emphasis added]. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6-7 (1982), reprinted in 1982 U.S.C.C.A.N. 770-71. The revival of an intentionally abandoned application is antithetical to the meaning and intent of the statute and regulation.

35 U.S.C. § 41(a)(7) authorizes the Director to accept a petition "for the revival of an unintentionally abandoned application for a patent." As amended December 1, 1997, 37 CFR 1.137(b)(3) provides that a petition under 37 CFR 1.137(b) must be accompanied by a statement that the delay was unintentional, but provides that "[t]he Commissioner may require additional information where there is a question whether the delay was unintentional." Where, as here, there is a question whether the initial delay was unintentional, the petitioner must meet the burden of establishing that the delay was unintentional within the meaning of 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b). See In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989); 37 CFR 1.137(b). Here, in view of the inordinate delay (over four years) in resuming prosecution, there is a question whether the

entire delay was unintentional. Petitioner should note that the issue is not whether some of the delay was unintentional by any party; rather, the issue is whether the entire delay has been shown to the satisfaction of the Director to be unintentional.

The question under 37 CFR 1.137(b) for period (1) is whether the delay on the part of the party having the right or authority to reply to avoid abandonment (or not reply) was unintentional. Accordingly, any renewed petition must clearly identify the party having the right to reply to avoid abandonment on July 12, 2007. That party, in turn must explain what effort(s) was made to further reply to the outstanding Office action and, further, why no reply was filed. If no effort was made to further reply, then that party must explain why the delay in this application does not result from a deliberate course of action (or inaction). Likewise, an explanation why this application became abandoned while it was under their control and what efforts attorney Young made to reply. Copies of any correspondence relating to the filing, or to not filing a further reply to the outstanding Office action are required from responsible person(s) and whoever else was involved with this application at the time of abandonment. Statements are required from any and all persons having firsthand knowledge of the circumstances surrounding the lack of a reply to the outstanding Office action.

As the courts have made clear, it is pointless for the USPTO to revive a long abandoned application without an adequate showing that the delay did not result from a deliberate course of action. See Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005); Lumenyte Int'l Corp. v. Cable Lite Corp., Nos. 96-1011, 96-1077, 1996 U.S. App. LEXIS 16400, 1996 WL 383927 (Fed. Cir. July 9, 1996) (unpublished) (patents held unenforceable due to a finding of inequitable conduct in submitting an inappropriate statement that the abandonment was unintentional).

As to Period (2):

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. *See* Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53160 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 87 (October 21, 1997), which clearly stated that any protracted delay (here, over 4 years) could trigger, as here, a request for additional information. As the courts have since made clear, a protracted delay in seeking revival, as here, requires a petitioner's detailed explanation seeking to excuse the delay as opposed to USPTO acceptance of a general allegation of unintentional delay. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633, at 1637-8 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005) at *21-*23. Statements are required from any and all persons having firsthand knowledge of the circumstances surrounding the protracted delay, after the abandonment date, in seeking revival.

As noted in MPEP 711.03(c)(II), subsection D, in instances in which such petition was not filed within 1 year of the date of abandonment of the application, applicants should include:

> (A) the date that the applicant first became aware of the abandonment of the application; and
> (B) a showing as to how the delay in discovering the abandoned status of the application occurred despite the exercise of due care or diligence on the part of the applicant.

In either instance, 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. *See also* New York University v. Autodesk, 2007 U.S. DIST LEXIS, U.S.District LEXIS 50832, *10 -*12 (S.D.N.Y. 2007)(protracted delay in seeking revival undercuts assertion of unintentional delay).

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

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OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA VA 22314

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NOV 23 2010

OFFICE OF PETITIONS

In re Patent No. 7,684,823

Issue Date: March 23, 2010

Application No. 11/290,459

Filed: December 1, 2005

Attorney Docket No. **281260US2**

ON PETITION

This is a decision on the petition filed September 1, 2010, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee data on the front page of the above-identified patent and other typographical errors by way of Certificate of Correction.

The request is **granted**.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3222. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

The file is being forwarded to the Certificate of Correction Branch for issuance of the requested Certificate of Correction.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

[1] See *Official Gazette* of June 22, 2004.

OPAP
AUG 13 2010
PATENT & TRADEMARK OFFICE

11/290582

Doc Code: PET.PTA.RCAL
Document Description: Request for Recalculation in view of Wyeth

PTO/SB/131 (01-10)

REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH**

Attorney Docket Number:	126707	Patent Number:	7,663,667
Filing Date (or 371(b) or (f) Date):	December 1, 2005	Issue Date:	February 16, 2010
First Named Inventor:	Akihiko MORISHITA		
Title:	Scan Conversion Device and Electronic Camera		

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).

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 13, 2010
Name (Print/Typed)	Mario A. Costantino	Registration Number	33,565
Name (Print/Typed)	Benjamin S. Prebyl	Registration Number	60,256

Note: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required in accordance with 37 CFR 1.33 and 11.18. Please see 37 CFR 1.4(d) for the form of the signature. If necessary, submit multiple forms for more than one signature, see below".

☐ *Total of _____ forms are submitted.

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OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA, VA 22320-4850

Mail Date: 08/25/2010

Applicant	: Akihiko Morishita	: DECISION ON REQUEST FOR
Patent Number	: 7663667	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/290,582	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/01/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1019** 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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www.uspto.gov

Browdy and Neimark, PLLC
1625 K Street, N.W.
Suite 1100
Washington DC 20006

MAILED
JAN 11 2012
OFFICE OF PETITIONS

In re Application of :
Giuseppe Simonazzi :
Application No. 11/290594 :
Filing or 371(c) Date: 12/01/2005 : ON PETITION
Pat. Num.: 7523333 :
Issue Date: 04/21/2009 :
Attorney Docket Number: SIMONAZZI7 :

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

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LANDMARK INTELLECTUAL PROPERTY LAW, PLLC
P.O. BOX 1266
MIDLOTHIAN, VA 23113

MAILED

DEC 15 2010

OFFICE OF PETITIONS

In re Patent No. 7,630,926
Issue Date: December 8, 2009
Application No. 11/290,606
Filed: December 1, 2005
Attorney Docket No. 62941.002111

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition under 37 CFR 1.78(a)(3), filed October 6, 2010, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed non-provisional applications set forth in the amendment filed with the petition by way of certificate of corrections.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition does not satisfy item (1) above.

The reference to add the above-noted, prior-filed applications on page one following the title is not acceptable as drafted because Application No. 10/712,182 does not claim benefit of 10/253,243, and Application No. 10/732,641 does not claim benefit of 10/253,243. Further, petitioner has not provided an amendment with a request to change the first sentence to add the benefit claims. See MPEP 201.11(III).

As authorized the $1,410 petition fee and $100 fee for the certificate of corrections has been charged to petitioner's credit card.

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

Telephone inquiries concerning this matter may be directed to April M. Wise at (571) 272-1642.

/dab/
David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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WYETH LLC
PATENT LAW GROUP
5 GIRALDA FARMS
MADISON NJ 07940

MAILED

SEP 19 2011

OFFICE OF PETITIONS

In re Application of :
Parks, et al. :
Application No. 11/290,639 : ON PETITION
Filed: November 29, 2005 :
Attorney Docket No. PC54600A :

This is in response to petition to revive an unintentionally abandoned application under 37 CFR 1.137(b), filed September 7, 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 reply to the final Office action mailed October 14, 2010, which set a shortened statutory period for reply of three months. No reply having been received, the application became abandoned on January 15, 2011. The Office mailed a Notice of Abandonment on May 4, 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).

Applicant has not submitted a proper reply to the October 14, 2010 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 Amendment submitted with the instant petition does not *prima facie* 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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS MN 55402

MAILED
FEB 10 2011
OFFICE OF PETITIONS

In re Patent No. 7,223,491 :
Issued: May 29, 2007 :
Application No. 11/290,647 : ON PETITION
Filed: December 1, 2005 :
Attorney Docket No. 2269.089US2 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed December 29, 2010.

On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-7751.

Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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PERKINS COIE LLP
P.O. BOX 1208
SEATTLE, WA 98111-1208

MAILED

AUG 11 2011

OFFICE OF PETITIONS

In re Application of :
Jai Sung LEE, *et al.* :
Application No. 11/290,702 : DECISION DISMISSING PETITION
Filed: November 29, 2005 : UNDER 37 CFR 1.313(a)
Attorney Docket No. **58877-8006.US01** :

This is a decision on the petition under 37 CFR 1.313(a), filed August 8, 2011, requesting withdrawal of the above-identified application from issue.

The petition is **dismissed** as moot for the reasons stated below.

A review of the file record discloses that a Notice of Allowance and Fee(s) Due was mailed on May 6, 2011, with the issue fee being due on or before August 8, 2011..

The filing of a petition under 37 CFR 1.313(a) is unnecessary, since the mere filing of an RCE and submission will effectively withdraw an application from issue prior to payment of the issue fee. In view thereof, the petition to withdraw from issue is dismissed as involving a moot issue. *Note* MPEP §§ 706.07(h)(IX) and 1308.

Inquiries concerning this decision may be directed to the undersigned at (571) 272-7253.

The matter is being referred to Technology Center AU 1731 for appropriate processing of the RCE filed August 8, 2011, and for consideration of the concurrently filed amendment.

/Monica A. Graves/
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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SNR DENTON US LLP
P.O. BOX 061080
CHICAGO, IL 60606-1080

Mail Date: 01/13/2011

Applicant	: Andre J. Niestroj	: DECISION ON REQUEST FOR
Patent Number	: 7667044	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/290,735	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/30/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1012** 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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K&L Gates LLP
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CHICAGO IL 60690

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AUG 27 2010

OFFICE OF PETITIONS

In re Patent No. 7,619,386 :
Issue Date: November 17, 2009 :
Application No. 11/290,929 : DECISION ON PETITION
Filed: November 30, 2005 :
Attorney Docket No. 3712531.00014 :

This is a decision on the petition filed June 30, 2010, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to Michelle R. Eason at (571) 272-4231. 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.

/Thurman K Page/

Thurman K. Page
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

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MAGINOT, MOORE & BECK LLP
CHASE TOWER
111 MONUMENT CIRCLE, SUITE 3250
INDIANAPOLIS IN 46204-5109

MAILED
AUG 29 2011
OFFICE OF PETITIONS

In re Application of	:	
Nesreen Ibrahim ZIEDAN et al.	:	
Application No. 11/290,982	:	DECISION ON PETITION
Filed: November 30, 2005	:	
Attorney Docket No. 1743-0022	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 02, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to submit formal drawings in a timely manner in reply to the Notice of Allowability, mailed February 17, 2011, which set a period for reply of three (3) months. Accordingly, this application became abandoned on May 18, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of formal drawings, (2) the petition fee of $810.00, and (3) a proper statement of unintentional delay. Accordingly, the reply to the Notice of Allowability of February 17, 2011 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
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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Medtronic, Inc. (CRDM)
710 MEDTRONIC PARKWAY NE
MS: LC340 Legal Patents
MINNEAPOLIS, MN 55432-9924

MAILED

AUG 12 2011

OFFICE OF PETITIONS

In re Application of
William K. Wenger, et. al.
Application No. 11/291,030
Filed: November 30, 2005
Attorney Docket No. P0022198.00/LG10126

ON PETITION

This is a decision on the petition under 37 CFR 1.181 (no fee), filed June 29, 2011, to withdraw the holding of abandonment in the above-identified application.

A review of the record shows that a final Office action was mailed on June 25, 2010. In response, an amendment was filed on August 25, 2010. On October 13, 2010, an Advisory Action was mailed. On November 12, 2010, a Notice of Appeal with fee and a Pre-Appeal Brief Request for Review was filed. On December 14, 2010, a Supplemental final Office action was mailed. On January 26, 2011, a Notice of Panel Decision from Pre-Appeal Brief Review was mailed. On June 23, 2011, a Notice of Abandonment was mailed. In response, the present petition was filed.

In the present petition, petitioner argues that "Because the Pre-Appeal Brief, Notice of Appeal and Pre-Appeal Brief Request were filed and receipt of such was acknowledged by the United States Patent and Trademark Office, and because the Decision of January 26, 2011 indicated that no further action was required of Applicants, Applicants believe the Notice of Abandonment was issued in error."

The undersigned concurs with petitioner, in that, the Notice of Abandonment mailed June 23, 2011, was issued in error. The Notice of Panel Decision from Pre-Appeal Brief Review (Notice) mailed on January 26, 2011, states that prosecution was reopened and that the rejection is withdrawn and a new Office action will be mailed. The Notice also states that no further action is required by applicant at this time. Therefore, this application is not abandoned.

In view of the above, the petition is **GRANTED** and the Notice of Abandonment is hereby vacated.

This application is being referred to Technology Center Art Unit 3766 for further processing in accordance with this decision.

Inquiries concerning this decision may be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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MARGARET ANDERSON
106 E. 6TH STREET, SUITE 900
AUSTIN, TX 78701

MAILED

MAR 03 2011

OFFICE OF PETITIONS

In re Application of :
Edward K.Y. Jung et al :
Application No. 11/291,120 : DECISION ON PETITION
Filed: November 30, 2005 : TO WITHDRAW
Attorney Docket No.: QQ1-0173US : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 25, 2011.

The request is **NOT APPROVED**.

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 Lewis C. Lee on behalf of the practitioners of record associated with Customer Number 49651.

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 Customer Number provided (55922) does not identify 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: Lewis C. Lee
601 W. Riverside Suite 1400
Spokane, WA 99201

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SIEMENS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
170 WOOD AVENUE SOUTH
ISELIN NJ 08830

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FEB 14 2011

OFFICE OF PETITIONS

In re Application of :
Alan Petro et al. :
Application No. 11/291,151 : DECISION ON PETITION
Filed: December 1, 2005 :
Attorney Docket No. **2005P01394 US01** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 5, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of April 27, 2010. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(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 August 28, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810, and the submission required by 37 CFR 1.114; (2) the petition fee of $1,620; and (3) a proper statement of unintentional delay.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1,110 extension of time fee submitted with the petition on January 5, 2011 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4584.

This application is being referred to Technology Center AU 3686 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

JoAnne Burke
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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DIEHL SERVILLA LLC
33 WOOD AVE SOUTH
SECOND FLOOR, SUITE 210
ISELIN, NJ 08830

MAILED

OCT 20 2010

OFFICE OF PETITIONS

In re Application of	:	
Eng et al.	:	DECISION ON PETITION
Application No. 11/291,227	:	TO WITHDRAW
Filed: December 1, 2005	:	FROM RECORD
Attorney Docket No. ANS0021-00US	:	

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 30, 2010, which is being treated as a request to withdraw from employment in a proceeding before the Office under 37 C.F.R. § 10.40.

The request is **DISMISSED**.

A review of the file record indicates that Diehl Servilla LLC does not have power of attorney in this patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

The request to change the correspondence address of record is not accepted in view of Diehl Servilla LLC not having power of attorney. See MPEP §§ 601.03 and 405.

All future communications from the Office will continue to be directed to the address listed below until otherwise notified by applicant.

Currently, there is no outstanding Office action that requires a reply.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-7751.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: MOSER IP LAW GROUP/ANSELL LIMITED
1030 BROAD STREET, SUITE 203
SHREWSBURY NJ 07702

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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Weaver Austin Villeneuve & Sampson LLP
P.O. BOX 70250
OAKLAND, CA 94612-0250

Mail Date: 08/30/2010

Applicant	: Guglielmo M. Morandin	: DECISION ON REQUEST FOR
Patent Number	: 7643430	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/291,251	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/30/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1012** 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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ZORAN/FULBRIGHT & JAWORSKI L.L.P.
2200 ROSS AVENUE
SUITE 2800
DALLAS TX 75201

In re Patent No. 7,649,932	:	
Issued: January 19, 2010	:	
Application No. 11/291,344	:	ON PETITION
Filed: November 30, 2005	:	
Attorney Docket No. 49581/G99999/Pending	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed December 10, 2010.

On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-7751.

Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/291,397	12/01/2005	Michael Fritz	106487.62624US	1284

23911 7590 02/10/2011
CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON, DC 20044-4300

EXAMINER	
IRVIN, THOMAS W	
ART UNIT	**PAPER NUMBER**
3657	

MAIL DATE	DELIVERY MODE
02/10/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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FEB 10 2011

CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON, DC 20044-4300

In re Application of:
Michael Fritz
Appl. No. 11/291,397
Filed: December 1, 2005
For: BEARING MEMBER FOR SUPPORTING AN ELASTIC SUPPORT ELEMENT

ON PETITION TO Request Withdrawal of Finality UNDER 37 CFR §1.181

This is a decision on Applicant's Petition under 37 CFR §1.181 filed on November 11, 2010 requesting withdrawal of the finality of the Office action mailed November 8, 2010.

The Petition is **GRANTED.**

The record reflects that on March 31, 2010 a non-final office action was mailed, in which claims 12-33 were rejected. On August 30, 2010, applicant filed an amendment amending claim 12. On November 8, 2010 a final office action was mailed rejecting claims 12-33.

In the petition filed November 11, 2010, applicant argues that the finality of the office action was premature due to the new grounds of rejection presented by the examiner. Independent claim 12 was amended on August 30, 2010, but independent claim 23 was not amended. In the office action issued on November 8, 2010, the examiner issued a new grounds of rejection for all the claims, including claim 23.

MPEP 706.07 sets forth that the examiner should never lose sight of the fact that in every case the applicant is entitled to a fair and full hearing, and that a clear issue between applicant and examiner should be developed, if possible, before appeal; and that in making the final rejection, they [the grounds of rejection] must be clearly developed to such an extent that applicant may readily judge the advisability of appeal unless a single previous Office action contains a complete statement supporting the rejection. Furthermore, MPEP 706.07(a) sets forth that the second or any subsequent action on the merits shall be made final except where the examiner introduces a new ground of rejection that is neither necessitated by applicants' amendment nor based on

information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p).

Regarding the 35 USC 103 rejection of claim 23, this rejection is considered a new grounds of rejection that was not necessitated by applicant's amendment. Therefore, the finality of the office action was improper and the petition is hereby granted.

The **finality** of the office action of November 8, 2010, but not the action itself, is hereby withdrawn. Applicant has submitted an amendment on February 1, 2011. This amendment will be entered as a matter of right and an action on the merits will be prepared by the examiner.

SUMMARY: The Petition is **GRANTED.**

Any questions regarding this decision should be directed to SPE Robert Siconolfi at 571-272-7124.

David Talbott
Director
Technology Center 3600
571-272-5150

Rs/snm: 2/4/11
SM

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F. CHAU & ASSOCIATES, LLC
130 WOODBURY ROAD
WOODBURY, NY 11797

MAILED

MAR 16 2011

OFFICE OF PETITIONS
ON PETITION

In re Application of :
Chong-Chul Chai, et al. :
Application No.: 11/291,399 :
Filed: December 1, 2005 :
Attorney Docket No.: 8071-104 (OPP 0425.10US) :

This is a decision on the petition, filed March 15, 2011, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on February 16, 2011, cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2883 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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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/291,414	12/01/2005	Robert P. Morris	1353/US	9988

52354 7590 03/08/2011

SCENERA RESEARCH, LLC
JENKINS, WILSON, TAYLOR & HUNT, P.A.
5400 Trinity Road
Suite 303
Raleigh, NC 27607

EXAMINER	
BOCCIO, VINCENT F	

ART UNIT	PAPER NUMBER
2158	

MAIL DATE	DELIVERY MODE
03/08/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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SCENERA RESEARCH, LLC
JENKINS, WILSON, TAYLOR & HUNT, P.A.
5400 Trinity Road
Suite 303
Raleigh NC 27607

In re Application of:
MORRIS, Robert
Application No. 11/291,414
Filed: December 1, 2005
For: **METHODS, SYSTEMS, AND COMPUTER PROGRAM PRODUCTS FOR ASSOCIATING COMPUTER-SYSTEM-ACCESSIBLE RESOURCES USING BEHAVIORS**

DECISION ON PETITION UNDER 37 C.F.R. § 1.103(a)

This is a decision on the petition for suspension of prosecution under 37 CFR § 1.103(a) filed on November 2, 2010.

The petition is **GRANTED**.

Pursuant to applicant's requests filed on November 2, 2010, action by the Office is suspended on this application under 37 CFR § 1.103(a) for a period of ***three (3) months from the mailing date of this letter***. At the end of this period, applicant is required to notify the examiner and request continuance of prosecution or a further suspension. See MPEP § 709.

Suspension of action under 37 CFR § 1.103(a)-(d) at the applicant's request will cause a reduction in patent term adjustment accumulated (if any) under 37 CFR § 1.703. The reduction is equal to the number of days beginning on the date a request for suspension of action was filed and ending on the date of the termination of the suspension. See 37 CFR § 1.704(c)(1).

Any inquiry concerning this decision should be directed to Eddie C. Lee whose telephone number is (571) 272-1732.

Vincent Trans
Quality Assurance Specialist, TC 2100
571-272-3613

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/291,414	12/01/2005	Robert P. Morris	1353/US	9988

52354 7590 06/10/2011

SCENERA RESEARCH, LLC
JENKINS, WILSON, TAYLOR & HUNT, P.A.
5400 Trinity Road
Suite 303
Raleigh, NC 27607

EXAMINER	
BOCCIO, VINCENT F	
ART UNIT	PAPER NUMBER
2158	
MAIL DATE	DELIVERY MODE
06/10/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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Alexandria, VA 22313-1450
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Kevin L. Wingate
SCENERA RESEARCH, LLC
111 Corning Road
Suite 220
Cary, North Carolina 27518

In re Application of:
Robert P. MORRIS
Appl. No.: 11/291,414
Filed: December 1, 2005
For: METHOD, SYSTEM, AND COMPUTER PROGRAM PRODUCTS FOR ASSOCIATING COMPUTER-SYSTEM-ACCESSIBLE RESOURCES USING BEHAVIOR

DECISION ON PETITION UNDER 37 CFR § 1.103(a)

This is a decision on the petition for suspension of prosecution under 37 CFR § 1.103(a) filed on June 09, 2011.

The petition is **GRANTED**.

Pursuant to applicant's request filed on June 09, 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.
11/291,414	12/01/2005	Robert P. Morris	1353/US	9988

52354 7590 09/22/2011

SCENERA RESEARCH, LLC
JENKINS, WILSON, TAYLOR & HUNT, P.A.
5400 Trinity Road
Suite 303
Raleigh, NC 27607

EXAMINER	
BOCCIO, VINCENT F	

ART UNIT	PAPER NUMBER
2158	

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.

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Kevin L. Wingate
SCENERA RESEARCH, LLC
111 Corning Road
Suite 220
Cary, North Carolina 27518

In re Application of:
Robert P. MORRIS
Appl. No.: 11/291,414
Filed: December 1, 2005
For: METHOD, SYSTEM, AND COMPUTER PROGRAM PRODUCTS FOR ASSOCIATING COMPUTER-SYSTEM-ACCESSIBLE RESOURCES USING BEHAVIOR

DECISION ON PETITION
UNDER 37 CFR § 1.103(a)

This is a decision on the petition for suspension of prosecution under 37 CFR § 1.103(a) filed on September 20, 2011.

The petition is **GRANTED**.

Pursuant to applicant's request filed on September 20, 2011, action by the Office is suspended on this application under 37 CFR § 1.103(a) for a period of **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.
11/291,414	12/01/2005	Robert P. Morris	1353/US	9988

52354 7590 12/22/2011

SCENERA RESEARCH, LLC
JENKINS, WILSON, TAYLOR & HUNT, P.A.
5400 Trinity Road
Suite 303
Raleigh, NC 27607

EXAMINER	
BOCCIO, VINCENT F	

ART UNIT	PAPER NUMBER
2158	

MAIL DATE	DELIVERY MODE
12/22/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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P.O. Box 1450
Alexandria, VA 22313-1450
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Kevin L. Wingate
SCENERA RESEARCH, LLC
111 Corning Road
Suite 220
Cary, North Carolina 27518

In re Application of:
Robert P. MORRIS
Appl. No.: 11/291,414
Filed: December 1, 2005
For: METHOD, SYSTEM, AND COMPUTER PROGRAM PRODUCTS FOR ASSOCIATING COMPUTER-SYSTEM-ACCESSIBLE RESOURCES USING BEHAVIOR

DECISION ON PETITION
UNDER 37 CFR § 1.103(a)

This is a decision on the petition for suspension of prosecution under 37 CFR § 1.103(a) filed on December 21, 2011.

The petition is **GRANTED**.

Pursuant to applicant's request filed on December 21, 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.
11/291,414	12/01/2005	Robert P. Morris	1353/US	9988

52354 7590 03/29/2012

SCENERA RESEARCH, LLC
JENKINS, WILSON, TAYLOR & HUNT, P.A.
5400 Trinity Road
Suite 303
Raleigh, NC 27607

EXAMINER	
BOCCIO, VINCENT F	

ART UNIT	PAPER NUMBER
2158	

MAIL DATE	DELIVERY MODE
03/29/2012	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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Alexandria, VA 22313-1450
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Kevin L. Wingate
SCENERA RESEARCH, LLC
111 Corning Road
Suite 220
Cary, North Carolina 27518

In re Application of:
Robert P. MORRIS
Appl. No.: 11/291,414
Filed: December 1, 2005
For: METHOD, SYSTEM, AND COMPUTER PROGRAM PRODUCTS FOR ASSOCIATING COMPUTER-SYSTEM-ACCESSIBLE RESOURCES USING BEHAVIOR

DECISION ON PETITION
UNDER 37 CFR § 1.103(a)

This is a decision on the petition for suspension of prosecution under 37 CFR § 1.103(a) filed on 28 March 2012.

The petition is **GRANTED**.

Pursuant to applicant's request filed on 28 March 2012, action by the Office is suspended on this application under 37 CFR § 1.103(a) for a period of **three (3) months from the mailing date of this letter**. At the end of this period, applicant is required to notify the examiner and request continuance of prosecution or a further suspension. See MPEP § 709.

Suspension of action under 37 CFR § 1.103(a)-(d) at the applicant's request will cause a reduction in patent term adjustment accumulated (if any) under 37 CFR § 1.703. The reduction is equal to the number of days beginning on the date a request for suspension of action was filed and ending on the date of the termination of the suspension. See 37 CFR § 1.704(c)(1).

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3613.

/Vincent N. Trans/
Vincent N. Trans, QAS
Technology Center 2100
Computer Architecture and Software

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO.: 7,917,383

DATED: August 09, 2011

INVENTOR(S): Matteo Maga, Paolo Canale, Astrid Bohe

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:

Page 2, right column, lines 18-19, delete "United States Patent and Trademark Office Action dated Jul. 23, 2009 for co-pending U.S. Appl. No. 11/291,438."

/JASON DUNHAM/
Supervisory Patent Examiner.Art Unit 3684

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 7/14/2011

TO SPE OF : ART UNIT 3684

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/291439 Patent No.: 7917383 B2

CofC mailroom date: 7/8/11

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: _____

_____

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: _____

/Jason Dunham/
SPE

3684
Art Unit

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MERCHANT & GOULD (MICROSOFT)
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

MAILED
DEC 23 2011
OFFICE OF PETITIONS

In re Application of :
Ralph Abdo, et al. :
Application No.: 11/291,448 : ON PETITION
Filed: December 1, 2005 :
Atty Docket No.: 14917.0268US01/MS313969.0 :

This is a decision on the petition, filed December 23, 2011, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on September 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 relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2165 for further processing of the request for continued examination 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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MARGARET ANDERSON
106 E. 6TH STREET, SUITE 900
AUSTIN TX 78701

MAILED

MAR 16 2011

OFFICE OF PETITIONS

In re Application of	:	
Jung et al.	:	DECISION ON PETITION
Application No. 11/291,482	:	TO WITHDRAW
Filed: November 30, 2005	:	FROM RECORD
Attorney Docket No. QQ1-0075US	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 26, 2011.

The request is **NOT APPROVED**.

The Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest *who properly became of record under 37 CFR 3.71,* or, if no assignee of the entire interest has properly been made of record, the most current address information provided for the first named inventor. 37 CFR 3.71(c) states:

> ***An assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement in compliance with § 3.73(b) that is signed by a party who is authorized to act on behalf of the assignee.***

According to a review of current USPTO records petitioner has not requested the address be changed to a properly recorded assignee or the first listed inventor. The Customer Number 55922 is neither the first named inventor nor the assignee who properly became of record under 37 CFR 3.71 As such, all future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Further, the address given on the petition differs from the address of record. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Currently, there is an outstanding Office action mailed January 7, 2011 that requires a reply.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-7751.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: LEE & HAYES, PLLC
601 W RIVERSIDE
SUITE 1400
SPOKANE, WA 99201

UNITED STATES PATENT AND TRADEMARK OFFICE

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PAULY, DEVRIES SMITH & DEFFNER, LLC
PLAZA VII-SUITE 3000
45 SOUTH SEVENTH STREET
MINNEAPOLIS MN 55402-1630

MAILED
DEC 07 2010
OFFICE OF PETITIONS

In re Application of :
Colin McColl, et al. :
Application No. 11/291,487 : DECISION ON PETITION
Filed: December 1, 2005 :
Attorney Docket No. 41512 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 14, 2010, to revive the above-identified application.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement, mailed March 1, 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 April 2, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1620, and (3) a proper statement of unintentional delay.

In view of the above, the petition is **GRANTED**.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 3624 for appropriate action by the Examiner in the normal course of business on the reply received October 14, 2010.

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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HONEYWELL/PERKOWSHI
PATENT SERVICES
101 COLUMBLA ROAD
P.O. BOX 2245
MORRISTOWN, NJ 07962

MAILED

JUL 06 2011

OFFICE OF PETITIONS

In re Application of :
Robert E. Blake et al :
Application No. 11/291,492 : ON PETITION
Filed: November 30, 2005 :
Attorney Docket No. H28784 :

This is a decision on the petition filed June 14, 2011 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the Issue fee and Publication Fee in a timely manner in reply to the Notice of Allowance mailed July 16, 2010, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on October 17, 2010.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the Issue fee and Publication Fee; (2) the petition fee; (3) the required statement of unintentional delay have been received. Accordingly, the issue fee is accepted as having been unintentionally delayed.

The file does not indicate a change of address has been submitted, although the address given no 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) 272-3210.

This matter is being referred to the Office of Data Management for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Thomas J. Perkowski
22 Thorndal Circle
Darien, CT 06820

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MICHAEL E. KLICPERA
PO BOX 573
LA JOLLA, CA 92038-0573

MAILED
JAN 25 2011
OFFICE OF PETITIONS

In re Application of
Michael E. Klicpera
Application No. 11/291,586
Filed: December 1, 2005
Attorney Docket No. 70840.01

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 21, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, September 11, 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 12, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $810, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 2617 for appropriate action by the Examiner in the normal course of business on the reply received December 21, 2010.

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 (02-10)
Approved for use through 07/31/2010. OMB 0651-0020
U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH**

Attorney Docket Number: 112025-0832	
Application Number: 11/292,534	Filing Date (or 371(b) or (f) Date): December 2, 2005
Patent Number: 7,664,789	Issue Date: February 16, 2010
First Named Inventor: Sina Mirtorabi	
Title: Method & Apparatus to Minimize Database Exchange in OSPF by Using a SHA-1 Digest Va	

PATENTEE HEREBY REQUESTS RECALCULATION OF THE PATENT TERM ADJUSTMENT (PTA) UNDER 35 USC 154(b) INDICATED ON THE ABOVE-IDENTIFIED PATENT. THE PATENTEE'S SOLE BASIS FOR REQUESTING THE RECALCULATION IS THE USPTO'S PRE-*WYETH* INTERPRETATION OF 35 U.S.C. 154(b)(2)(A).

Note: This form is only for requesting a recalculation of PTA for patents issued before March 2, 2010, if the sole basis for requesting the recalculation is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A). See Instruction Sheet on page 2 for more information.

Patentees are reminded that to preserve the right to review in the United States District Court for the District of Columbia of the USPTO's patent term adjustment determination, a patentee must ensure that he or she also takes the steps required under 35 U.S.C. 154(b)(3) and (b)(4) and 37 CFR 1.705 in a timely manner.

**Wyeth v. Kappos*, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).

Signature /Thomas J. Frame/	Date August 4, 2010
Name (Print/Typed) Thomas J. Frame	Registration Number 47,232

Note: *Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required in accordance with 37 CFR 1.33 and 11.18. Please see 37 CFR 1.4(d) for the form of the signature. If necessary, submit multiple forms for more than one signature, see below**.

☐ *Total of _____ forms are submitted.

The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

PTO/SB/131 (02-10)
Approved for use through 07/31/2010. OMB 0651-0020
U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

Instruction Sheet for:
REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH**

(Not to be Submitted to the USPTO)

This form is only for requesting a recalculation of PTA for patents issued before March 2, 2010, if the sole basis for requesting the recalculation is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A).

This form must be filed within 180 days of the day the patent was granted, with the following exception:

> Patentees who received a decision from the USPTO under the USPTO's pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A) may file a request for reconsideration of that decision if such a request for reconsideration is filed within **two months** of the date of the decision (37 CFR 1.181(f)). If the patentee's sole basis for requesting reconsideration of the decision is the USPTO's pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A), the request for reconsideration need only state that reconsideration is being requested in view of Wyeth (this form may be used for this purpose if it is filed within **two months** of the date of the decision from the USPTO).

Do not use this form if the application has been allowed, but not yet issued as a patent.

1. **For patents issued before March 2, 2010:** A request for reconsideration under 37 CFR 1.705(d) and the fee set forth in 37 CFR 1.18(e) are not required, provided that the patentee's sole basis for requesting recalculation of the PTA in the patent is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A) and this form is filed within 180 days of the day the patent was granted.

2. **For patents issued on or after March 2, 2010 (do not use this form):** Patentees seeking a revised PTA in a patent issued on or after March 2, 2010, must file a request for reconsideration under 37 CFR 1.705(d) that complies with the requirements of 37 CFR 1.705(b)(1) and (b)(2) within two months of the day the patent issued.

For more information, see "Notice Concerning Calculation of the Patent Term Adjustment With Respect to the Overlapping Delay Provision of 35 U.S.C. 154(b)(2)(A)" available on the USPTO Web site at http://www.uspto.gov/patents/law/notices/2010.jsp.

**Wyeth v. Kappos*, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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CESARI AND MCKENNA, LLP
88 BLACK FALCON AVENUE
BOSTON, MA 02210

Mail Date: 08/17/2010

Applicant	: Sina Mirtorabi	: DECISION ON REQUEST FOR
Patent Number	: 7664789	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/292,534	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/02/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **758** 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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FOLEY & LARDNER LLP
777 EAST WISCONSIN AVENUE
MILWAUKEE WI 53202-5306

MAILED

DEC 21 2010

OFFICE OF PETITIONS

In re Application of :
Nachman et al. :
Application No. 11/292562 :
Filing or 371(c) Date: 12/02/2005 :
Title of Invention: :
TECHNIQUES TO COMMUNICATE AND :
PROCESS LOCATION INFORMATION :
FROM COMMUNICATIONS NETWORKS :
ON A MOBILE COMPUTING DEVICE :
COMPRISING SURFACTANT :

DECISION
ON PETITION AND NOTING
JOINDER OF INVENTOR

This Decision is in response to the "Petition Under 37 C.F.R. § 1.183," filed September 9, 2010, for acceptance of a Declaration under 37 CFR 1.131, on behalf of themselves and non-signing inventor Krzysztof J. Kowaczyk, and on the subsequently filed Declaration under 37 CFR 1.131, executed by the previously non-signing inventor Krzysztof J. Kowaczyk, filed September 23, 2010.

The petition under 37 C.F.R. § 1.183 is **dismissed as moot**.

The Declaration has been entered and made of record.

In view of the joinder of the inventor, consideration under 37 CFR 1.183 is not necessary and the Petition is considered to be moot.

The application is being referred to Technology Center Art Unit 2166 for continued examination in the normal course of business.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3232.

/DLW/

Derek L. Woods
Attorney
Office of Petitions

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COMMISSIONER FOR PATENTS
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Paper No.

WORKMAN NYDEGGER / FINISAR
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City UT 84111

MAILED
JAN 14 2011
OFFICE OF PETITIONS

In re Application of	:	
Stewart et al.	:	DECISION ON
Application No. 11/292,658	:	PETITION
Filed: December 2, 2005	:	
Atty Docket No. 15436.253.	:	
86.1.1.1	:	

This is a decision on the "PETITION FOR RECONSIDERATION OF HOLDING OF ABANDONMENT UNDER MPEP 711.03 AND 711.03(b)" filed September 28, 2010.

By Notice mailed September 27, 2010, applicant was advised that the application was abandoned for failure to timely file a reply to the final Office action mailed August 7, 2009. The Office action set a three-month shortened statutory period for reply, with extensions of time obtainable under 37 CFR 1.136(a). A Notice of Appeal was timely filed on February 8, 2010. However, an appeal brief was not considered timely filed thereafter.

In response, applicant timely filed the instant petition. Applicant's arguments have been considered and found persuasive to the extent that applicant timely and properly responded to the final Office action. On (Monday) February 8, 2010, applicant timely and properly responded to the final Office action with the filing of a notice of appeal and appeal fee (with an extension of time for response within the third month and the extension fee). Accompanying this response was a Pre-Appeal Brief Request for Review. Further, on June 29, 2010, the Office mailed a Notice of Panel Decision from Pre-Appeal Brief Review. This Notice set a one-month period (from the later date of the Panel Decision) to file an Appeal Brief, with extensions of time

obtainable under §1.136(a). Thus, at the time of the mailing of the Notice of Abandonment mailed September 27, 2010, the extendable period for reply continued to run. In fact, an Appeal Brief (and brief fee) was filed with this petition on September 28, 2010. This response was made timely by an accompanying extension of time for response within the second month. Under the circumstances, withdrawal of the holding of abandonment is warranted.

In view thereof, 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 AU 2828 has been advised of this decision. The application is, thereby, forwarded to the Technology Center's technical staff to withdraw the holding of abandonment and for the examiner to respond to the appeal brief timely filed September 28, 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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Weaver Austin Villeneuve & Sampson LLP
P.O. BOX 70250
OAKLAND, CA 94612-0250

Mail Date: 08/03/2010

Applicant	: Ankur Jain	: DECISION ON REQUEST FOR
Patent Number	: 7644179	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/292,684	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/01/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **804** 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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SHILOH, ET AL.
C/O INTELLEVATE, LLC
PO BOX 52050
MINNEAPOLIS, MN 55402

MAILED
AUG 08 2011
OFFICE OF PETITIONS

In re Application of
Solomon Trainin, et al.
Application No. 11/292,909
Filed: December 1, 2005
Attorney Docket No. P23198

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 August 8, 2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is not signed by an attorney of record. Nevertheless, in accordance with 37 CFR 1.34, the signature of Mr. Naim Shichrur appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. If Mr. Shichrur desires to receive future correspondence regarding this file, the appropriate power of attorney documents must be submitted. All future correspondence regarding this application file will be directed solely to the above-noted correspondence 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 June 21, 2011 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries regarding this decision should be directed to undersigned at (571) 272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

This application is being referred to Technology Center AU 2618 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Shiloh et al.
C/O INTELLEVATE , LLC
P.O BOX 52050
MINNEAPOLIS MN 55402

MAILED
DEC 29 2011
OFFICE OF PETITIONS

In re Application of	:	
Solomon Trainin, et al.	:	
Application No. 11/292,909	:	DECISION GRANTING PETITION
Filed: December 1, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. P23198	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, December 26, 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 1, 2011 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Terri Johnson at (571) 272-2991.

This application is being referred to Technology Center AU 2618 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP
300 S. WACKER DRIVE
32ND FLOOR
CHICAGO, IL 60606

MAILED
NOV 12 2010
OFFICE OF PETITIONS

In re Patent of Corona et al.	:	DECISION ON REQUEST
Patent No. 7,568,615	:	FOR RECONSIDERATION OF
Issue Date: August 4, 2009	:	PATENT TERM ADJUSTMENT
Application No. 11/293,017	:	
Filing Date: December 2, 2005	:	
Attorney Docket No. 05-746-A	:	

This decision is in response to the "Request for Reconsideration of Patent Term Adjustment" filed May 20, 2010, as supplemented on June 18, 2010. Patentees state the correct patent term adjustment is three hundred thirty-five (335) days.

The request for reconsideration of the patent term adjustment is **GRANTED**.

The patent issued August 4, 2009. The patent term adjustment indicated in the patent was 367 days.

A request for reconsideration of the patent term adjustment under 37 C.F.R. § 1.705(d) was filed October 5, 2009.

A "Request for Recalculation of Patent Term Adjustment in View of *Wyeth*" ("*Wyeth* Request") was filed February 1, 2010.

The Office issued a decision ("First Decision") in response to the October 5, 2009 request on March 1, 2010. The decision granted the request and stated a certificate of correction would be issued indicating the term of the patent is extended or adjusted by six hundred twelve (612) days.

On March 30, 2010, the Office issued a certificate of correction indicating the term of the patent is extended or adjusted by six hundred twelve (612) days.

Patentees state the Office issued a decision ("Second Decision") in response to the *Wyeth* Request on April 20, 2010, stating the correct patent term adjustment is 814 days. Patentees also state the Office issued another decision ("Third Decision") almost identical to the April 20, 2010

decision on April 21, 2010. The Office notes the Office's application file includes a copy of the April 21, 2010 decision, but does not include any copy of a decision mailed April 20, 2010.

The Office mailed another decision ("Fourth Decision") in response to the *Wyeth* Request on May 18, 2010. The Fourth Decision stated the prior decision was vacated and stated the correct patent term adjustment is 857 days.

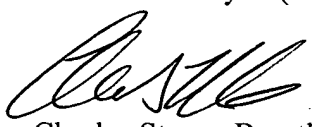
The petition filed May 20, 2010, as supplemented on June 18, 2010, contends the correct patent term adjustment is 612 days as stated in the decision mailed March 1, 2010.

The Office agrees the patent term adjustment is 612 days and the Second Decision, Third Decision, and Fourth Decision referenced in this letter are hereby withdrawn.

As previously noted, the Office issued a certificate of correction indicating the term of the patent is extended or adjusted by 612 days on March 30, 2010.

The Certificates of Correction Branch will be informed of the instant decision to ensure a certificate of correction indicating a patent term adjustment of 857 days is **NOT** issued pursuant to the May 18, 2010 decision because the proper patent term adjustment is 612 days as stated in the certificate of correction issued March 30, 2010.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Steven Brantley at (571) 272-3203.



Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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KILPATRICK TOWNSEND & STOCKTON LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

MAILED
DEC 20 2011
OFFICE OF PETITIONS

In re Application of :
Robert M. Scarborough, et al. :
Application No. 11/293,026 : NOTICE
Patent No. 7,358,257 :
Filed: December 1, 2005 :
Attorney Docket No. 022104-000242US

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-2991.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

PACIFIC BIOSCIENCES OF CALIFORNIA, INC.
1380 Willow Road
MENLO PARK CA 94025

MAILED

JUL 15 2011

OFFICE OF PETITIONS

In re Application of :
John Eid et al. :
Application No. 11/293,040 : DECISION ON PETITION
Filed: December 2, 2005 :
Attorney Docket No. 67191-5010-US :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 28, 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 24, 2011, as required by the Notice of Allowance and Fee(s) Due, mailed March 24, 2011. Accordingly, the date of abandonment of this application is June 25, 2011. A Notice of Abandonment was mailed on July 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 $1,620, and (3) a proper statement of unintentional delay. Accordingly, the issue and publication fees are accepted as being unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to the Office of Data Management for further processing into a patent.

/Kimberly A. Inabinet/

Kimberly A. Inabinet
Petitions Examiner
Office of Petitions

Doc Code: PET.PTA.RCAL
Document Description: Request for Recalculation in view of Wyeth

PTO/SB/131 (02-10)
Approved for use through 07/31/2010. OMB 0651-0020
U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH**

Attorney Docket Number: 2705-0502	
Application Number: 11/293,285	Filing Date (or 371(b) or (f) Date): December 1, 2005
Patent Number: 7,664,897	Issue Date: February 16, 2010
First Named Inventor: Earl T. Cohen	
Title: Method and Apparatus for Communicating Over a Resource Interconnect	

PATENTEE HEREBY REQUESTS RECALCULATION OF THE PATENT TERM ADJUSTMENT (PTA) UNDER 35 USC 154(b) INDICATED ON THE ABOVE-IDENTIFIED PATENT. THE PATENTEE'S SOLE BASIS FOR REQUESTING THE RECALCULATION IS THE USPTO'S PRE-*WYETH* INTERPRETATION OF 35 U.S.C. 154(b)(2)(A).

Note: This form is only for requesting a recalculation of PTA for patents issued before March 2, 2010, if the sole basis for requesting the recalculation is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A). See Instruction Sheet on page 2 for more information.

Patentees are reminded that to preserve the right to review in the United States District Court for the District of Columbia of the USPTO's patent term adjustment determination, a patentee must ensure that he or she also takes the steps required under 35 U.S.C. 154(b)(3) and (b)(4) and 37 CFR 1.705 in a timely manner.

**Wyeth v. Kappos*, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).

Signature /Thomas J. Frame/	Date August 4, 2010
Name (Print/Typed) Thomas J. Frame	Registration Number 47,232

Note: *Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required in accordance with 37 CFR 1.33 and 11.18. Please see 37 CFR 1.4(d) for the form of the signature. If necessary, submit multiple forms for more than one signature, see below**.

☐ *Total of _____ forms are submitted.

The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

PTO/SB/131 (02-10)
Approved for use through 07/31/2010. OMB 0651-0020
U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

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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Stolowitz Ford Cowger LLP
621 SW Morrison St
Suite 600
Portland, OR 97205

Mail Date: 08/18/2010

Applicant	: Earl T. Cohen	: DECISION ON REQUEST FOR
Patent Number	: 7664897	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/293,285	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/01/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1072** 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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SCHWEGMAN, LUNDBERG & WOESSNER/SYNTHES
P.O. BOX 2938
MINNEAPOLIS, MN 55402

MAILED

OCT 25 2010

OFFICE OF PETITIONS

In re Application of	:	
Kurt Jaggi, et al.	:	
Application No. 11/293,289	:	DECISION ON PETITION
Filed: December 1, 2005	:	TO WITHDRAW
Attorney Docket No. 060960-5064-01-US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 30, 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/Synthes 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 Terri Johnson at 571-272-2991.

/Terri Johnson/
Petitions Examiner
Office of Petitions

cc: **MORGAN, LEWIS, & BOCKIUS LLP**
SYNTHES
1701 MARKET STREET
PHILADELPHIA, PA 19103

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 P. Horvach
SCHWEGMAN, LUNDBERG & WOESSNER/SYNTHES
1600 TCF Tower
121 South 8th Street
Minneapolis, MN 55402

MAILED

DEC 27 2010

OFFICE OF PETITIONS

In re Application of	:	
Kurt Jaggi, et al.	:	
Application No. 11/293,289	:	DECISION ON PETITION
Filed: December 1, 2005	:	TO WITHDRAW
Attorney Docket No. 060960-5064-01-US	:	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 November 29, 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/Synthes 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 Terri Johnson at 571-272-2991.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

cc: **MORGAN, LEWIS, & BOCKIUS LLP**
SYNTHES
1701 MARKET STREET
PHILADELPHIA, PA 19103

UNITED STATES PATENT AND TRADEMARK OFFICE

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FULBRIGHT & JAWORSKI, LLP
1301 MCKINNEY
SUITE 5100
HOUSTON TX 77010-3095

MAILED

DEC 15 2010

OFFICE OF PETITIONS

In Re application of
Claude Leonard Jr. Benckenstein et al.
Application No. 11/293,433
Filed: December 2, 2005
Attorney Docket No. HO-SEEG.P0005US

ON PETITION

This is a decision on the PETITION TO EXPUNGE INFORMATION OR COPY OF PAPERS IN APPLICATION FILE UNDER 37 CFR 1.59(b), filed September 10, 2010.

The petition is **granted**.

Petitioner requests that the Power of Attorney, CRF Statement and EFS acknowledgement Receipt of September 10, 2010, be expunged from the record. Petitioner states that the information was submitted in error and was meant for another application. The petition fee has been charged to petitioner's deposit account.

The information in question has been determined by the undersigned to not be material to the examination of the instant application. The information was clearly intended to be filed in an unrelated application.

The expunged material has been removed from the official file.

Telephone inquiries relative to this decision should be directed to Carl Friedman at (571) 272-6842.

Carl Friedman
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/293,438	12/02/2005	Robert E. Lins	4133W	3770

70818 7590 02/15/2011

Holland & Hart, LLP (LANX, Inc.)
Intellectual Property Department
P.O. Box 8749
Denver, CO 80201-8749

EXAMINER	
MERENE, JAN CHRISTOP L	
ART UNIT	PAPER NUMBER
3733	

NOTIFICATION DATE	DELIVERY MODE
02/15/2011	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@hollandhart.com
mfking@hollandhart.com

UNITED STATES DEPARTMENT OF COMMERCE
U.S. Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
11293438	12/2/2005	LINS, ROBERT E.	4133W

Holland & Hart, LLP (LANX, Inc.)
Intellectual Property Department
P.O. Box 8749
Denver, CO 80201-8749

EXAMINER
JAN CHRISTOPHER MERENE

ART UNIT	PAPER
3733	20110209

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

In view of the papers filed May 12, 2006, it has been found that this nonprovisional application, as filed, through error and without deceptive intent, improperly set forth the inventorship, and accordingly, this application has been corrected in compliance with 37 CFR 1.48(a). The inventorship of this application has been changed by the addition of Loren E. Lins and Harvey Simovitch. The application will be forwarded to the Office of Initial Patent Examination (OIPE) for issuance of a corrected filing receipt, and correction of Office records to reflect the inventorship as corrected.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAN CHRISTOPHER MERENE whose telephone number is (571)270-5032. The examiner can normally be reached on 8 am - 6pm Mon-Thurs, alt Fri. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eduardo Robert can be reached on 571-272-4719. 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.

/Jan Christopher Merene/
Examiner, Art Unit 3733

/EDUARDO C. ROBERT/
Supervisory Patent Examiner, Art Unit 3733

/Jan Christopher Merene/
Examiner, Art Unit 3733

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LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1125
4417 LANCASTER PIKE
WILMINGTON DE 19805

MAILED

NOV 08 2011

OFFICE OF PETITIONS

In re Application of	:	
Sameuls et al.	:	
Application No. 11/293568	:	ON PETITION
Filing or 371(c) Date: 12/02/2005	:	
Attorney Docket Number:	:	
AD7202USNA	:	

This is a decision on the Petition to Revive an Unintentionally Abandoned Application Under 37 C.F.R. § 1.137(b), filed October 14, 2011.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed December 7, 2010, wherein claims 1-14 and 16-27 were rejected[1]. The Office action set a three (3) month period for reply from the mail date of the Office action. Extensions of time were available under 37 CFR 1.136(a). No reply having been received, the application became abandoned on March 8, 2011. A Notice of Abandonment was mailed August 18, 2011.

Applicant files the present petition and Notice of Appeal and fee, and Pre-Appeal Brief Request for Review.

Accordingly, the petition is granted. The application is being referred to Technology Center Art Unit 3742 for consideration of Applicant's Pre-Appeal Brief Request for Review in the normal course of business.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3232.

/DLW/

Derek L. Woods
Attorney
Office of Petitions

[1] In a final Office action mailed August 17, 2010 claims 1-27 were rejected. Applicant filed a Request for Continued Examination and an Amendment resulting in the rejection of claims 1-14 and 16-27.

UNITED STATES PATENT AND TRADEMARK OFFICE

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January 28, 2011

Patent No. : 7,813,953 B2
Appl. No. : 11/293,605
Inventor(s) : Chris Boardman, et al.
Issued : October 12, 2010
Title : **SYSTEM AND METHOD FOR PRODUCT LEVEL PROJECTIONS OF PHARMACY PRESCRIPTIONS WITHIN PRODUCT THERAPY CLASSES**
Docket No. : **AP36026 (065855.0365)**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this mater, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, , no additional fee is required.

Antonio Johnson
For Mary F. Diggs
Decisions & Certificates
of Correction Branch
(571)272-0483

BAKER BOTTS L.L.P.
30 ROCKEFELLER PLAZA
44TH FLOOR
NEW YORK NY 10112-4498

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44TH FLOOR
NEW YORK NY 10112-4498

MAILED
JUL 12 2011
OFFICE OF PETITIONS

In re Patent No. 7,813,953 :
Issue Date: 12 October, 2010 :
Application No. 11/293,605 : ON PETITION
Filed: 2 December, 2005 :
Attorney Docket No. AP36026 (065855.0365) :

This is a decision on the petition filed on 16 February, 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 2 December, 2005, and the location of recordation as Reel/Frame 017327/0608.

Petitioner requests issuance of a certificate of correction the identification of the Assignee(s) to "**IMS SOFTWARE SERVICES LTD (Plymouth Meeting, Pennsylvania, USA)**" of the substance/form of that submitted therewith on 7 July, 2011.

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. 7,813,953
Application No. 11/293,605

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

[1] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing.The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation,or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

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QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO, CA 92121

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NOV 17 2011
OFFICE OF PETITIONS

In re Application of :
Murat Mese, et al. :
Application No. 11/293,686 : DECISION ON PETITION
Filed: December 2, 2005 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No.: 050176B1 :

This is a decision on the petition, filed November 2, 2011, under 37 CFR 1.78(a)(6) to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of prior-filed provisional application set forth in the concurrently filed Application Data Sheet (ADS).

The petition is **DISMISSED**.

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 petition does not comply with item (1) above. In this regard, the petition cites one provisional application and the ADS cites another. Therefore, the Office needs clarification of the correct provisional application for which priority is being claimed.

In view of the above, an ADS or amendment in compliance with the aforementioned rules, along with a renewed petition under 37 CFR 1.78(a)(6), must be submitted.

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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QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO, CA 92121

MAILED
JAN 12 2012
OFFICE OF PETITIONS

In re Application of :
Murat Mese, et al. :
Application No. 11/293,686 : DECISION ON PETITION
Filed: December 2, 2005 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No.: 050176B1 :

This is a decision on the renewed petition, filed December 8, 2011, under 37 CFR 1.78(a)(6) to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed Application Data Sheet (ADS).

The petition is **GRANTED**.

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). Further, the non-provisional application claiming the benefit of the prior-filed provisional application must have been filed within twelve months of the filing date of the prior-filed provisional application.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 119(e) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed provisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

The application is being forwarded to Technology Center AU 2471 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.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Attachment: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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
11/293,686	12/02/2005	2471	4796	050176B1	29	5

CONFIRMATION NO. 4783

CORRECTED FILING RECEIPT

23696
QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO, CA 92121

Date Mailed: 01/04/2012

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Murat Mese, Rancho Palos Verdes, CA;
Arak Sutivong, Bangkok, THAILAND;
David Jonathan Julian, San Diego, CA;
Tingfang Ji, San Diego, CA;

Power of Attorney: The patent practitioners associated with Customer Number 23696

Domestic Priority data as claimed by applicant

This application is a CIP of 11/158,584 06/21/2005
which claims benefit of 60/662,176 03/15/2005

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: 01/10/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/293,686**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

INTERFERENCE CONTROL IN A WIRELESS COMMUNICATION SYSTEM

Preliminary Class

370

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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BOR Z. JANG
9436 PARKSIDE DRIVE
CENTERVILLE, OH 45458

MAILED

JAN 25 2011

OFFICE OF PETITIONS

In re Application of
Aruna Zhamu, et al.
Application No. 11/293,706
Filed: December 5, 2005
Attorney Docket No.

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 21, 2010, to revive the above-identified application.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts. However, if petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. All future correspondence regarding this application file will be directed solely to the address of record until otherwise instructed.

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must so notify the Office.

The 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 27, 2010. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of

a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). A two (2) month extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is June 28, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $405, and the submission required by 37 CFR 1.114; (2) the petition fee of $810; 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 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 1795 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

cc: MARK P. LEVY
THOMPSON HINE, LLP
2000 COURTHOUSE PLAZA, NE
PO BOX 8801
DAYTON, OH 45401-8801

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 04/07/11

TO SPE OF : ART UNIT 1765

SUBJECT : Request for Certificate of Correction for Appl. No.: 11293844 Patent No.: 7902317

CofC mailroom date: 04/01/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (C of C)
Randolph Square 9D40-D
Palm Location 7580

You can fax the Directors/SPE response to 571-270-9990

Lamonte Newsome
Certificates of Correction Branch
571-272-3421

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☐ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

SPE Doris Heidler AU 1765

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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DEC 14 2011

OFFICE OF PETITIONS

MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO, P.C
ONE FINANCIAL CENTER
BOSTON MA 02111

In re Application of :
Ellery : DECISION ON PETITION
Application No. 11/293,878 :
Filed: December 2, 2005 :
Atty. Dkt. No.: 42603-501C04US :

This decision is in response to the petition under 37 CFR 1.137(b), filed December 2, 2011.

The petition is **GRANTED**.

The application became abandoned July 15, 2010 for failure to timely submit a proper reply to the non-final Office action mailed April 14, 2010. The non-final Office action set a three month shortened statutory period of time for reply. Notice of Abandonment was mailed November 9, 2010.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by: (1) the required reply to the outstanding Office action or notice, unless previously filed; (2) the petition fee as set forth in 37 C.F.R. § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee set forth in 37 C.F.R. § 1.20(d)) required pursuant to 37 C.F.R. § 1.137(c).

The instant petition has been carefully reviewed and found in compliance with the requirements set forth above.

This application is being forwarded to Group Art Unit 3694 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAILED
MAY 03 2011
OFFICE OF PETITIONS

MOTOROLA MOBILITY, INC
600 NORTH US HIGHWAY 45
W2-55BB
LIBERTYVILLE IL 60048-5343

In re Application of :
Manuel J. Leon et al. :
Application No. 11/293,898 : DECISION ON PETITION
Filed: December 5, 2005 :
Attorney Docket No. CE15468JDP :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 2, 2011, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before January 18, 2011, as required by the Notice of Allowance and Fee(s) Due, mailed October 15, 2010. Accordingly, the date of abandonment of this application is January 19, 2011. A Notice of Abandonment was mailed on February 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 $1,510 and the publication fee of $300, (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay. Accordingly, the issue and publication fees are accepted as being unintentionally delayed.

37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appearing in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is **not** a correct reading of the statement appearing in the petition

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to the Office of Data Management for further processing into a patent.

/Kimberly A. Inabinet/

Kimberly A. Inabinet
Petitions Examiner
Office of Petitions

cc: Jose Gutman
Fleit Gibbons Gutman Bongini & Bianco P.L.
One Boca Commerce Center
551 N.W. 77th Street, Suite 111
Boca Raton, FL 33487

UNITED STATES PATENT AND TRADEMARK OFFICE

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LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1125
4417 LANCASTER PIKE
WILMINGTON, DE 19805

MAILED
FEB 16 2012
OFFICE OF PETITIONS

In re Application of Ding et al. :
Application No. 11/294,009 : Decision on Petition
Filing Date: December 5, 2005 :
Attorney Docket No. CL2931USNA :

This is a decision on the petition under 37 CFR 1.137(b) filed December 8, 2011, which requests revival of the instant application.

The petition is **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the final Office action issued May 9, 2011, which set a shortened statutory period for reply of three (3) months. An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, the above-identified application became abandoned on August 9, 2011. The Office issued a Notice of Abandonment on November 17, 2011.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed,
(2) The petition fee, and
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.[1]

The petition satisfies the requirements of 37 CFR 1.137(b) in so far as petitioner has supplied (1) a reply in the form of a Notice of Appeal and amendment, (2) the required petition fee of $1,860, and (3) the required statement of unintentional delay. Therefore, the petition is granted and the application is revived.

[1] A terminal disclaimer is also necessary if the application is a design application or if the application was filed on or before June 8, 1995.

The petition includes a notice of appeal. In order to be timely, any appeal brief must be filed within two months of the mailing date of the instant decision. The two-month period file the brief may be extended pursuant to 37 CFR 1.136(a).

Technology Center Art Unit 1777 will be informed of the instant decision and the amendment filed with the Notice of Appeal will be reviewed and considered in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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Alexandria, VA 22313-1450
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PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

MAILED

AUG 3 1 2010

OFFICE OF PETITIONS

In re Application of :
Kagan et al. :
Application No. 11/294,012 :
Filed: December 5, 2005 : ON APPLICATION FOR
Attorney Docket No. : PATENT TERM ADJUSTMENT
VDX5105USDIV1 :
Title: CARTRIDGE FOR CONTAINING :
A SPECIMEN SAMPLE FOR OPTICAL :
ANALYSIS :

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(b) WITHIN THREE MONTHS OF RECEIPT OF THE NOTICE OF ALLOWANCE" filed May 3, 2010. Applicants submit that the correct patent term adjustment to be indicated on the patent is at least one thousand three hundred forty-five (1,345) days, not eight hundred forty-one (841) 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

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and **must** include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Charlema Grant at (571) 272-3215.

Anthony Knight
Director
Office of Petitions

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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
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PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7156653	2007-01-02	11294109	2005-12-06	P-0088US

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
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Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Dan M. Dela Rosa, Esq./	Date (YYYY-MM-DD)	2011-05-16
Name	Dan M. Dela Rosa, Esq.	Registration Number	38429

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 7156653
Issue Date: January 2,2007
Application No. 11294109
Filed: December 6,2005
Attorney Docket No. P-0088US

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed May 16,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of May 16,2011 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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PETER K. TRZYNA, ESQ.
P O BOX 7131
CHICAGO IL 60680

MAILED

MAR 16 2011

OFFICE OF PETITIONS

In re Application of	:	
Perg et al.	:	DECISION ON PETITION
Application No. 11/294,152	:	TO WITHDRAW
Filed: December 5, 2005	:	FROM RECORD
Attorney Docket No. Newmrkt-P3-05	:	

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 28, 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 3 7 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 request to change the correspondence of record is not acceptable as the requested correspondence address is not that of the first named inventor, but rather the second named inventor. As such, all future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Currently, there is 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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

PETER K. TRZYNA, ESQ.
P O BOX 7131
CHICAGO IL 60680

MAILED

APR 15 2011

OFFICE OF PETITIONS

In re Application of :
Perg et al. :
Application No. 11/294,152 : DECISION ON PETITION
Filed: December 5, 2005 TO WITHDRAW FROM RECORD
Attorney Docket No. Newmrkt-P3-05 :
:

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 April 12, 2011.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office 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 Peter K. Trzyna on behalf of all attorneys of record. All attorneys/agents of record have been withdrawn.

Applicants are reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor 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/
Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Wayne F. Perg / New Market Solutions, LLC
4919 S. Apache Avenue
Sierra Vista, AZ 85650

UNITED STATES PATENT AND TRADEMARK OFFICE

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C. JAMES BUSHMAN
5851 SAN FELIPE
SUITE 975
HOUSTON TX 77057

MAILED

OCT 27 2011

OFFICE OF PETITIONS

In re Application of :
Richard Havinga :
Application No. 11/294,163 : ON PETITION
Filed: December 5, 2005 :
Attorney Docket No. Xtreme-11 :

This is a decision on the petition under 37 CFR 1.137(b)[1], filed November 5, 2009 and resubmitted October 14, 2011, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the Final Office Action mailed April 9, 2009 which set a three (3) month shortened statutory period for reply. No extensions of time under 37 CFR 1.136(a) were obtained. Accordingly, a Notice of Abandonment was mailed November 9, 2009, after the filing of the petition to revive on November 5, 2009.

Petitioner has submitted a Request for Continued Examination (RCE) and an amendment as the submission required under 37 CFR 1.114.

As the petition fee and fee for the RCE were previously paid on November 5, 2009, the fee paid with the petition on October 14, 2011 is a duplicate fee and will be refunded to deposit account no. 02-4345.

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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)).

This matter is being referred to Technology Center 3672 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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 11/15/10 Paper No.: —

TO SPE OF : ART UNIT 2885

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/294,162 Patent No.: 7,158,234 B1

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: _____

JONG-SUK (JAMES) LEE
SUPERVISORY PATENT EXAMINER

AU 2885

PTO/SB/44 (09-07)
Approved for use through 08/31/2013. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
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(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,758,234

APPLICATION NO.: 11/294,167

ISSUE DATE : 07/20/2010

INVENTOR(S) : Gerald R. Savicki, Jr.; Jeffrey C. Richards; David A. Finlay, Sr.; Gary Wilson

It is certified that an error appears or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Column 14, claim 1, line 35, reads "reflective portion and a reflective portion and" Please keep the first -- reflective portion and -- and delete the second "a reflective portion and"

The sentence should therefore read:

including reflective portion and at least one light emitting element...

Column 14, claim 1, line 41 and 42, please delete "including a housing portion integrally formed in the reflective portion"

Column 18, claim 52, line 30, 31, and 32, please delete "the ambient light sensor sub-assembly being disposed within a region formed by the lens cover"

MAILING ADDRESS OF SENDER (Please do not use customer number below):

Daniel P. Malley, Bond, Schoeneck & King, PLLC, 10 Brown Road, Suite 102, Ithaca, NY 14850

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

UNITED STATES PATENT AND TRADEMARK OFFICE

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.
11/294,331	12/06/2005	Anthony R. Eisenhut	NSR-001	3861

21884 7590 07/27/2011
WELSH FLAXMAN & GITLER LLC
2000 DUKE STREET, SUITE 100
ALEXANDRIA, VA 22314

EXAMINER	
LE, HUYEN D	
ART UNIT	**PAPER NUMBER**
3751	
MAIL DATE	**DELIVERY MODE**
07/27/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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WELSH FLAXMAN & GITLER LLC
2000 DUKE STREET, SUITE 100
ALEXANDRIA VA 22314

In re Application of:
EISENHUT, ANTHONY R.
Serial No. 11/294,331
Filed: Dec. 6, 2005
Docket: NSR-001
Title: DISPENSING APPARATUS INCLUDING AN APPLICATOR AND SHIELD FOR PHOTOCURABLE RESINS

::: DECISION ON PETITION

This is a decision on the petition filed July 13, 2011 requesting withdrawal of the non-final Office action of June 9, 2011 and issuance of Notice of Allowance because the Board of Appeals has reversed the examiner's final rejection. This petition is considered as pursuant to 37 CFR 1.181, and no fee is required.

The petition is **DENIED.**

The relevant record shows that:

1) The applicant filed an appeal brief on October 16, 2007 appealing the examiner's final rejection of claims 1-14 to the Board of Patent Appeals and Interferences (hereinafter referred as the Board).
2) On February 6, 2008, the examiner promulgated an Examiner's Answer. The rejection[1] of claims 1-14 was based on 35 USC 102(b) as anticipated by Dragan (U.S. Pat. 4,682,950).

[1] Claims 1-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Dragan (4,682,950). The Dragan reference discloses a dispensing apparatus comprising a container 10 having a storage reservoir 10A containing a photocurable resin material; a dispensing nozzle 14; and an applicator shield 17. Regarding claim 2, the dispensing nozzle 14 is integrally formed with the container 10. Regarding claim 3, the photocurable resin functions as a filler. Regarding claim 4, the applicator shield 17 is curved. Regarding claim 5, the applicator shield 17 is shaped and dimensioned which capable of spreading and finishing the photocurable resin material (i.e. the cap 17 can be used as a spreader). Regarding claim 6, the applicator shield 17 is composed of plastics. Regarding claim 7, the applicator shield 17 is substantially opaque and is shaped and dimensioned to extend about the 'nozzle 14 in a manner permitting the application of the resin material to a desired surface via the nozzle (when the shield 17 is removed). Regarding claims 8-10, 12 and 13, the dispensing apparatus comprises a container 10 having a storage reservoir 10A containing a photocurable resin material; a dispensing nozzle 10B; and an applicator shield 15 connected to the nozzle 10B during dispensing of the resin material and positioned about the dispensing nozzle 10B to shield the resin from exposure of light. Regarding claim 11, the applicator shield 15 is curved (around the sides). Regarding claim 14, the applicator shield 15 is substantially opaque and is shaped and dimensioned to extend about the nozzle 10B in a manner permitting the application of the resin material to a desired surface via the nozzle 10B.

3) On February 8, 2011 the Board partially affirmed the examiner's rejection of claim 8. The Board reversed the examiner's rejection of claims 1-7 and 9-14.
4) On June 9, 2011, the examiner re-opened prosecution with proper TC Director's approval under 37 CFR §1.114, §1.198 or § 41.50. On June 9, 2011, the examiner promulgated a non-final Office action rejecting all claims 1-14 under 35 USC § 102 as anticipated by Dragan. Although the prior art reference was not changed but the rejection[2] has significantly changed the rationale and interpretation of the prior art reference.
5) On July 13, 2011 petitioner filed the present petition, arguing that the non-final Office action was not signed by a TC 3700 Director under 37 CFR § 1.198. Petitioner requests that the rejection of the claims in the non-final Office action of June 9, 2011 be withdrawn and all pending claims 1-7 and 9-14 be allowed.

Analysis and Discussion

In the petition, petitioner argues that the examiner's new grounds of rejection based on the Dragan patent (U.S. Pat. 4,682,950) was an identical grounds for the rejection adjudicated before the BPAI and reversed by the BPAI. Petitioner further argues that the examiner has manipulated the arguments to correspond with the rejection of claim 8 sustained before the BPAI. Therefore, petitioner opines that the examiner is not permitted to reopen prosecution to rehash issues previously adjudicated by the BPAI. This line of arguments is not persuasive because the examiner is not prohibited to consider a prior art reference at a later time with different interpretation of the reference. The examiner is not prohibited to apply a prior art reference against claims at issue with different rationale. After a careful review of the Board decision, the examiner's reopening of prosecution as stated in the non-final Office action of June 9, 2011 is deemed proper in accordance with 37 CFR § 41.50 for the following reasons. It must be noted that the examiner has never applied the Dragan patent with the new interpretation as stated in the Office action in the Examiner Answer of February 6, 2008. The new issues presented by the new grounds of the rejection clearly were not present in the earlier appeal nor were adjudicated by the Board. Under the circumstances, it is proper for the TC Director to authorize the primary examiner to re-open prosecution for the purposes of entering the new grounds of rejections in accordance MPEP § 1214.04 and 37 CFR §1.198. However, the delay in applying the new ground of rejections is sincerely regretted. Any past delay may be remedied by an adjustment of patent terms when the application is finally found allowable.

With regard to the request for issuance of a Notice of Allowance, a TC Director can not compel an examiner to ignore prior art reference and direct the examiner to allow an application. If

---

[2] Claims 1-7 and 9-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Dragan (4,682,950). The Dragan reference discloses a dispensing apparatus comprises a container 10 having a storage reservoir 10A containing a photocurable resin material; a dispensing nozzle 10B; and an applicator shield 15 connected to the nozzle 10B during dispensing of the resin material and positioned about the dispensing nozzle 10B to shield the resin from exposure of light. Regarding claims 2 and 9, the dispensing nozzle 10B is integrally formed with the container 10. Regarding claims 3 and 10, the photocurable resin functions as a filler. Regarding claims 4 and 11, the applicator shield 15 is curved (at the sides) to block more light. Regarding claims 5 and 12, the applicator shield 15 is shaped and dimensioned which capable of spreading and finishing the photocurable resin material. Regarding claims 6 and 13, the applicator shield 15 is composed of plastics. Regarding claims 7 and 14, the applicator shield 15 is substantially opaque and is shaped and dimensioned to extend about the nozzle 10B in a manner permitting the application of the resin material to a desired surface via the nozzle 10B. Claim 8 is rejected under 35 U.S.C. 102(b) as being anticipated by Dragan (4,682,950) as indicated in the last Office action

petitioner believes that the examiner has erred in his judgment in the non-final Office action of June 9, 2011, a proper course of action would be to file an appeal brief to have the examiner's rejection reversed. The applicant always has the right to appeal the examiner's patentability determination to the Board if the applicant still disagrees with the stated position of the examiner. Therefore, the requested relief for issuance of a Notice of Allowance can not be granted.

Conclusion

For the foregoing reasons, the relief requested by the petitioner will not be granted. In particular, the non-final Office action with a TC Director's authorization of re-opening of prosecution mailed on June 9, 2011 is proper in accordance with MPEP § 1214.04 and 37 CFR § 1.198. Petitioner is reminded that the mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings.

The application is being forwarded to the examiner via the Supervisory Patent Examiner of Art Unit 3751 awaiting a response to the outstanding Office action mailed on June 9, 2011. Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision, 37 CFR 1.181(f). No extension of time under 37 CFR 1.136(a) is permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181" and directed to the Office of the Deputy Commissioner for Patent Examination Policy at Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450. See MPEP 1002.02(b).

The petition is DENIED.

Angela D. Sykes, Director
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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WELSH FLAXMAN & GITLER LLC
2000 DUKE STREET, SUITE 100
ALEXANDRIA VA 22314

MAILED

DEC 19 2011

OFFICE OF PETITIONS

In re Application of :
Anthony R. Eisenhut :
Application No. 11/294,331 : ON PETITION
Filed: December 6, 2005 :
Attorney Docket No. NSR-001 :

This is a decision on the RENEWED PETITION UNDER RULE 1.181, filed August 23, 2011, requesting that the Director exercise his supervisory authority to review and overturn the decision of the Director, Technology Center 3700 (TC Director), dated July 27, 2011, which denied the petition filed July 13, 2011.

The petition under 37 CFR 1.181, to overturn the decision of the TC Director dated July 27, 2011 is **DENIED**[1].

BACKGROUND

A final Office action was mailed May 16, 2007.

An appeal brief was filed October 16, 2007 and an examiner's answer was mailed February 6, 2008.

A Board of Patent Appeals and Interferences (BPAI) decision was mailed February 8, 2011.

A non-final Office action was mailed June 9, 2011.

A petition to the TC Director under 37 CFR 1.181 was filed on July 13, 2011 and was denied in a decision mailed July 27, 2011.

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[1] This decision is a final agency action within the meaning of 5 U.S.C. § 704 for purposes of seeking judicial review. See MPEP 1002.02.

The instant renewed petition was filed August 23, 2011.

STATUTE, REGULATION, AND EXAMINING PROCEDURE

35 U.S.C. 131 Examination of application.

> The 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.

35 U.S.C. 132 Notice of rejection; reexamination.

> (a) Whenever, 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; and if after receiving such notice, the applicant persists in his claim for a patent, with or without amendment, the application shall be reexamined. No amendment shall introduce new matter into the disclosure of the invention.
> (b) The Director shall prescribe regulations to provide for the continued examination of applications for patent at the request of the applicant. The Director may establish appropriate fees for such continued examination and shall provide a 50 percent reduction in such fees for small entities that qualify for reduced fees under section 41(h)(1) of this title.

37 CFR § 1.198 Reopening after a final decision of the Board of Patent Appeals and Interferences.

> When a decision by the Board of Patent Appeals and Interferences on appeal has become final for judicial review, prosecution of the proceeding before the primary examiner will not be reopened or reconsidered by the primary examiner except under the provisions of § 1.114 or § 41.50 of this title without the written authority of the Director, and then only for the consideration of matters not already adjudicated, sufficient cause being shown.

MPEP 706 states in relevant part:

> The goal of examination is to **clearly articulate any rejection** early in the prosecution process so that the applicant has the opportunity to provide evidence of patentability and otherwise reply completely at the earliest opportunity. (Emphasis added)

MPEP 1213.02 states in relevant part:

> Under 37 CFR 41.50(b), the Board may, in its decision, make a new rejection of one or more of any of the claims pending in the case, including claims which have been

allowed by the examiner.

While the Board is authorized to reject allowed claims, this authorization is not intended as an instruction to the Board to examine every allowed claim in every appealed application. It is, rather, intended to give the Board express authority to act when it becomes apparent, during the consideration of rejected claims, that one or more allowed claims may be subject to rejection on either the same or on different grounds from those applied against the rejected claims. **Since the exercise of authority under 37 CFR 41.50(b) is discretionary, no inference should be drawn from a failure to exercise that discretion.** (Emphasis added)

MPEP 1214.04 states in relevant part:

If the examiner has specific knowledge of the existence of a particular reference or references which indicate nonpatentability of any of the appealed claims as to which the examiner was reversed, he or she should submit the matter to the Technology Center (TC) Director for authorization to reopen prosecution under 37 CFR 1.198 for the purpose of entering the new rejection. See MPEP § 1002.02(c) and MPEP § 1214.07. The TC Director's approval is placed on the action reopening prosecution

The examiner may request rehearing of the Board decision. Such a request should normally be made within 2 months of the receipt of the Board decision in the TC. The TC Director's secretary should therefore date stamp all Board decisions upon receipt in the TC.

The request for rehearing must state with particularity the points believed to have been misapprehended or overlooked by the Board. Arguments not raised in the answers before the Board and evidence not previously relied upon in the answers are not permitted in the request for rehearing except upon a showing of good cause, the examiner may present a new argument based upon a recent relevant decision of either the Board or a Federal Court.

37 CFR 1.104(c)(2) states:

In rejecting claims for want of novelty or for obviousness, the examiner must cite the best references at his or her command. When a reference is complex or shows or describes inventions other than that claimed by the applicant, the particular part relied on must be designated as nearly as practicable. **The pertinence of each reference, if not apparent, must be clearly explained and each rejected claim specified.** (Emphasis added)

OPINION

Petitioner requests that the examiner's non-final Office action mailed June 9, 2011 be withdrawn as it repeats a rejection of the claims that was presented in the examiner's answer of February 6, 2008 and was reversed by the BPAI in their decision of February 8, 2011.

The USPTO's reviewing courts have specifically held that even a court decision reversing a rejection does not preclude further examination of the application by the USPTO subsequent to examination provided for in 35 U.S.C. §§ 131 and 132 and the BPAI and court review provided for in 35 U.S.C. §§ 134 and 141. See Jeffrey Mfg. Co. v Kingsland, 179 F.2d 35, 83 USPQ 494 (D.C. Cir. 1949), see also In re Gould, 673 F.2d 1385, 1386, 213 USPQ 628, 629 (CCPA 1982) (USPTO can always reopen prosecution in an application under an ex parte court appeal once it regains jurisdiction over the application); In re Arkley, 455 F.2d 586, 589, 172 USPQ 524, 527 (CCPA 1972) (the USPTO is free to make such other rejections as it consider appropriate subsequent to a court decision reversing a rejection); In re Fisher, 448 F.2d 1406, 1407, 171 USPQ 292, 293 (CCPA 1971) (reversal of rejection does not mandate issuance of a patent); In re Ruschig, 379 F.2d 990, 993, 154 USPQ 118, 121 (CCPA 1967) (subsequent to a court decision reversing a rejection, the USPTO may reopen prosecution and reconsider previously withdrawn rejections that are not inconsistent with the decision reversing the rejection); In re Citron, 326 F.2d 418, 418-19, 140 USPQ 220, 221 (CCPA 1964) (following a decision reversing a rejection of claims, the USPTO has not only the right but the duty to reject claims deemed unpatentable over new references). Accordingly, it is well established that if there is any substantial, reasonable ground within the knowledge or cognizance of the Director why the application should not issue, the Director has the authority, much less the duty, to refuse to issue the application. See In re Drawbaugh, 9 App. D.C. 219, 240 (D.C. Cir. 1896).

In the above-identified application, the reopening of prosecution is for the consideration of matters not already adjudicated. The BPAI does not allow claims: it simply decides on the record before it whether to affirm or reverse the examiner's rejection. See Ex Parte Alpha Industries, Inc., 22 USPQ2d 1851,1857 (BPAI 1992). While a decision by the BPAI to reverse the examiner's rejection generally results in the allowance of the application, such a decision does not require the examiner to allow the application. See id. In addition, while the BPAI has the authority to issue a new rejection in its decision, the fact that the BPAI does not enter a new ground of rejection in its decision is not an indication that the BPAI considers a claim to be allowable. See id.

A review of the record of the above-identified application indicates that the examiner did **not** reopen prosecution to challenge or disagree with the BPAI decision of February 8, 2011, but rather the examiner reopened prosecution to address matters not adjudicated in the BPAI decision of February 8, 2011. The rejection before the BPAI was a rejection of claims 1-14 under 35 USC 102(b) as being anticipated by Dragan (4,682,950). Claims 1 and 8 were the independent claims. Claim 1 (and dependent claims 2-7 and 9-14) was rejected on one interpretation of Dragan and claim 8 was rejected on a different interpretation of Dragan. The BPAI reversed the rejection of claims 1-7 and 9-14 and affirmed the rejection of claim 8. In the subsequent non-final Office action mailed June 9, 2011 the examiner rejected claims 1-7 and 9-14 again as anticipated by

Dragan. However, in this rejection, the examiner applied the analysis of Dragan that was used to reject claim 8 to now reject claims 1-7 and 9-14.

Petitioner argues the re-opening of prosecution after the BPAI decision is improper as the examiner did not apply new art but instead applied art under a ground of rejection identical to that adjudicated by the BPAI. MPEP 1214.04 indicates the examiner may reopen prosecution if he is aware of a reference that indicates non-patentability of claims the examiner was reversed on. This section of the MPEP does not require new art, only a new rejection. Dragan was re-applied against claims 1-7 and 9-14 under 35 USC 102(b) but Dragan was interpreted in an entirely different manner than it had been when applied against these claims at appeal. This different interpretation constitutes a different rejection of the claims. An explanation of how the reference is applied against the claims is what defines the actual rejection, see MPEP 706 and 37 CFR 1.104(c)(2).

Petitioner argues that the BPAI had the opportunity to apply Dragan against claims 1-7 and 9-14 using the interpretation as used against claim 8. While this is true, MPEP 1213.02 makes it clear that this action by the BPAI is discretionary and also indicates that failure to do so does not infer any position by the BPAI on this issue.

Petitioner argues that the examiner had the opportunity to request rehearing by the BPAI. However, the examiner may do this only when he believes there were points believed to have been misapprehended or overlooked by the BPAI. Since the BPAI appears to have properly understood the positions taken by the appellant and the examiner in the appeal, the examiner was not in a position to request a rehearing based on the requirements to do so.

Given the above facts, the examiner had only one option open to him given that he considered that claims 1-7 and 9-14 were not patentable based on a reference (Dragan) that he had knowledge of (MPEP 1214.04). The TC Director's petition decision based on the different interpretation of Dragan as applied against claims 1-7 and 9-14 being proper to reopen prosecution on those claims was correct. In this regard, the TC Director's decision has been reviewed and no error is found in the decision.

DECISION

The decision of the TC Director has been reviewed and no error having been discovered therein, the present petition is **DENIED**.

The above-identified application is being referred to Technology Center 3700 for further processing consistent with this decision.

Telephone inquiries concerning this decision should be directed to Carl Friedman at (571) 272-6842.

Andrew Hirshfeld
Associate Commissioner for
Patent Examination Policy

ak/cf

UNITED STATES PATENT AND TRADEMARK OFFICE
Certificate

Patent No. 7,297,871 B2

Patented: November 20, 2007

On petition requesting issuance of a certificate for correction of inventorship pursuant to 35 U.S.C. 256, it has been found that the above identified patent, through error and without any deceptive intent, improperly sets forth the inventorship.

Accordingly, it is hereby certified that the correct inventorship of this patent is: Norio Watanabe, Shizuoka (JP); Naoto Kogure, Shizuoka (JP); and Hironori Ochiai, Shizuoka (JP).

Signed and Sealed this Eighth Day of March 2011.

JINHEE J. LEE
Supervisory Patent Examiner
Art Unit 2835
Technology Center 2800

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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SEP 08 2010

OFFICE OF PETITIONS

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

In re Patent No. 7,665,336
Issued: February 23, 2010
Application No. 11/294,495
Filed: December 6, 2005
Atty. Dkt. No.: 0091-0248PUS1

: DECISION ON 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 CFR § 1.705(d)", filed June April 23, 2010, requesting that the above-identified application be accorded a patent term adjustment of 486 days rather than 254 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 486 days is **GRANTED**.

The Office acknowledges the submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The application is being forwarded to the Certificates of Corrections Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **486** 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 : 7,665,336

DATED : February 23, 2010 **DRAFT**

INVENTOR(S) : Widen

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 254 days

Delete the phrase "by 254 days" and insert – by 486 days--

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 8/2/10

TO SPE OF : ART UNIT 2169 (2100)

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/294,894 Patent No.: 7,610,304

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, ASE
Randolph Sq. Ste 9D68A
703-756-1590

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☑ **Approved** — **All** changes apply.

☐ **Approved in Part** — Specify below which changes **do not** apply.

☐ **Denied** — State the reasons for denial below.

Afreen Abel-Jalil

SPE ART UNIT 2165

PAGE 1/1 * RCVD AT 8/3/2010 2:19:11 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-5/40 * DNIS:2734042 * CSID: * DURATION (mm-ss):00-40

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 04/10/11

TO SPE OF : ART UNIT 2629

SUBJECT : Request for Certificate of Correction for Appl. No.: 11294945 Patent No.: 7911424

CofC mailroom date: 03/29/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (C of C)
Randolph Square 9D40-D
Palm Location 7580

[redacted]

Formatted: Highlight

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

Lun-Yi Lao

SPE

2629

Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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SIEMENS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
170 WOOD AVENUE, SOUTH
ISELIN NJ 08830

MAILED

FEB 22 2011

OFFICE OF PETITIONS

In re Application of :
Porzelt, et al. :
Application No. 11/295,130 : DECISION
Filed/Deposited: 6 December, 2005 :
Attorney Docket No. 2004P19611US :

This is a decision on the papers filed on 21 July, 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.

NOTE:

The papers considered as the instant petition were received into the Office of Petitions for determination only at this writing.

Petitioner has not followed the clear language of the guidance in the Commentary at MPEP §711.03(c)(I) as to the proper showing requirements for relief pursuant to 37 C.F.R. §1.181.

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.

Application No. 11/295,130

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 Non-Compliant Brief 29 December, 2009, with reply due absent extension of time on or before 29 January, 2010.

The application went abandoned by operation of law after midnight 29 January, 2010.

The Office mailed the Notice of Abandonment on 7 July, 2010.

On 21 July, 2010, Petitioner filed, *inter alia*, the instant petition pursuant to 37 C.F.R. §1.181, and averred non-receipt and supplied a statement by Ms. Elizabeth Resende and copy of a docket sheet, however, Petitioner clearly ignored the guidance in the Commentary at MPEP §711.03(c)(I) as to the statements and documentary support for the showing required under the Rule.

Thus, Petitioner failed to make 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 non-receipt:

***

> The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.

> Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.
>
> A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.[1]
>
> ***

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.[2]

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

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[1] *See*: MPEP §711.03(c) (I)(A).

[2] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on Petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

STATUTES, REGULATIONS

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 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.

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[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.))

[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).

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

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
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SIEMENS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
170 WOOD AVENUE, SOUTH
ISELIN NJ 08830

MAILED

JUL 20 2011

OFFICE OF PETITIONS

In re Application of :
Porzelt, et al. :
Application No. 11/295,130 : DECISION
Filed/Deposited: 6 December, 2005 :
Attorney Docket No. 2004P19611US :

This is a decision on the papers filed on 14 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 Non-Compliant Brief 29 December, 2009, with reply due absent extension of time on or before 29 January, 2010.

The application went abandoned by operation of law after midnight 29 January, 2010.

The Office mailed the Notice of Abandonment on 7 July, 2010.

On 21 July, 2010, Petitioner filed, *inter alia*, the instant petition pursuant to 37 C.F.R. §1.181, and averred non-receipt and supplied a statement by Ms. Elizabeth Resende and copy of a docket sheet, however, Petitioner clearly ignored the guidance in the Commentary at MPEP §711.03(c)(I) as to the statements and documentary support for the showing required under the Rule. The petition was dismissed on 22 February, 2011.

On 14 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 an amended brief, and made the statement of unintentional delay.

Petitioners' attentions always are directed to the guidance in the Commentary at MPEP §711.03(c) as to the showing regarding unintentional delay and a petition pursuant to 37 C.F.R. §1.137(b).

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2] The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

Unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and, by definition, are not intentional.[3]))

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[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

[2] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.

Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

As to Allegations of
Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee.

It appears that the requirements under the rule have been satisfied.

CONCLUSION

Accordingly, the petition pursuant to 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to the Technology Center/AU 3765 to await the Examiner's Answer in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the TC/AU in response to this decision. It is noted that all inquiries with regard to status need be directed to the TC/AU where that change of status must be effected—that does not occur in the Office of Petitions.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[4]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

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[3] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

[4] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attdance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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KLAUS J. BACH
4407 TWIN OAKS DRIVE
MURRYSVILLE, PA 15668

MAILED

MAR 21 2011

OFFICE OF PETITIONS

In re Application of :
Hermann Burmeister, et al. :
Application No. 11/295,138 : ON PETITION
Filed: December 6, 2005 :
Attorney Docket No. MB528 :

This is in response to the communication, filed May 25, 2007, to revive the above-identified application, which is being treated as a petition to withdraw the holding of abandonment.

The petition is **DISMISSED**.

On September 20, 2006, the Office mailed a Corrected Notice to File Missing Parts of Non-provisional Application (Notice), which set a two month shortened statutory period to reply. The application became abandoned on November 21, 2006, for failure to submit a timely response to the September 20, 2006 Notice. On May 22, 2007, the Office mailed a Notice of Abandonment.

DISCUSSION OF PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

A review of the record discloses that petitioner submitted a reply to the Notice mailed September 20, 2006, but it was inadvertently placed in the wrong application. The reply was not received in the Office until May 25, 2007 which was after the statutory period for timely filing a reply. A Notice informed applicant that he could purchase extensions of time if needed to make the filing of the oath/declaration timely.

Therefore, the petition to withdraw the holding of abandonment is **dismissed**.

ALTERNATIVE VENUE

Petitioner is strongly encouraged to consider filing a petition under 37 CFR 1.137(b) to revive an unintentionally abandoned application instead of filing a renewed petition under 37 CFR 1.181 or a petition under 37 CFR 1.137(a).

A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed. In nonprovisional utility application abandoned for failure to respond to a non-final Office action, the required reply may be met by filing either (A) an argument or amendment under 37 CFR 1.111 or (B) a continuing application under 37 CFR 1.53(b).

(2) The petition fee as set forth in 37 CFR 1.17(m), **$1620.00 for large entity**;

(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

A form for filing a petition to revive an unintentionally abandoned application accompanies this decision for petitioner's convenience. If petitioner desires to file a petition under 37 CFR 1.137(b) instead of filing a request for reconsideration, petitioner must complete the enclosed petition form (PTO/SB/64) and pay the $1620.00 petition fee.

Petitioner may wish to consider hiring a registered patent attorney or agent to assist in the prosecution of this application. Additionally, petitioner is encouraged to contact the Inventors Assistance Center (IAC) by telephone at 800-786-9199 or 571-272-1000, Monday through Friday from 8:30 AM to 5:30 PM (EST). The IAC provides patent information and services to the public and is staffed by former Supervisory Patent Examiners and experienced Primary Examiners who answer general questions concerning patent examining policy and procedure.

Any request for reconsideration of this decision should be submitted within **TWO (2) MONTHS** from the mail date of this decision and be entitled "Renewed Petition to Withdraw the Holding of Abandonment under 37 CFR 1.181." *See* 37 CFR 1.181(f).

Further correspondence with respect to this matter should be addressed as follows:

By mail:
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX:
(571) 273-8300
Attn: Office of Petitions

By hand:
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries related to this decision may be directed to the April M. Wise at (571) 272-1642. All other inquiries concerning this application should be directed to the Office of Patent Application Processing at their hotline 571-272-4000.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

Enclosures: Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b); Form PTO/SB/64, Privacy Act Statement;

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KLAUS J. BACH
4407 TWIN OAKS DRIVE
MURRYSVILLE, PA 15668

MAILED

JUN 10 2011

OFFICE OF PETITIONS

In re Application of
Herman Burmeister, et al.
Application No. 11/295,138
Filed: December 6, 2005
Attorney Docket No. MB528

DECISION ON PETITION

This is a decision on the renewed petition, filed April 25, 2011, which is being treated as a petition under 37 CFR 1.8(b), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the Corrected Notice to Filed Missing Parts of Non-provisional Application (Notice) of September 20, 2006, which set a two (2) month shortened statutory period for reply. Accordingly, a reply was due on or before November 20, 2006.

Petitioner states that a timely reply was mailed via certificate of mailing on September 26, 2006, which included the following papers: a reply to the Notice to File Missing Parts of Non-provisional Application and signed declaration with authorization to charge to deposit account. Petitioner has submitted a copy of the previously mailed correspondence, which bears a certificate of mailing dated September 26, 2006, 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 Notice of September 22, 2006 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 May 25, 2007.

Telephone inquiries concerning this decision should be directed to the April M. Wise at 571-272-1642. All other inquiries concerning the examination or status of this application should be directed to the Office of Patent Application Processing at their hotline 571-272-4000.

This application is being referred to the Office of Patent Application Processing for appropriate action in the normal course of business on the reply received with petition.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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Wong, Cabello, Lutch, Rutherford & Brucculeri, LLP
20333 SH 249 6th Floor
Houston, TX 77070

MAILED

JUN 20 2011

OFFICE OF PETITIONS

In re Application of	:	
Lionel Spinelli et al.	:	
Application No. 11/295,363	:	DECISION ON PETITION
Filed: December 6, 2005	:	TO WITHDRAW
Attorney Docket No. 04-032-US (149-0137US)	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 16, 2011.

The request is **moot because a revocation of power of attorney has been filed.**

A review of the file record indicates that the power of attorney to Wong, Cabello, Lutch, Rutherford & Brucculeri, LLP, has been revoked by the assignee of the patent application on June 3, 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 Kimberly Inabinet at 571-272-4618.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Brake, Hughes, Bellermann, LLP
c/o CPA Global
P.O. Box 52050
Minneapolis, MN 55402

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/295,363	12/06/2005	Lionel Spinelli	04-032-US (149-0137US)

CONFIRMATION NO. 8150

29855
WONG, CABELLO, LUTSCH, RUTHERFORD & BRUCCULERI, L.L.P.
20333 SH 249 6th Floor
HOUSTON, TX 77070

POWER OF ATTORNEY NOTICE

Date Mailed: 06/13/2011

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/03/2011.

- 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).

/kainabinet/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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WONG, CABELLO, LUTSCH, RUTHERFORD & BRUCCULERI, L.L.P.
20333 SH 249 6TH FLOOR
HOUSTON TX 77070

MAILED

APR 07 2011

OFFICE OF PETITIONS

In re Application of	:	
Olivier BONAL et al.	:	
Application No. 11/295,364	:	DECISION ON PETITION
Filed: December 06, 2005	:	
Attorney Docket No. 149-0138US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 15, 2011, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before February 08, 2011, as required by the Notice of Allowance and Fee(s) Due, mailed November 08, 2010. Accordingly, the date of abandonment of this application is February 09, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,510.00 and the publication fee of $300.00, (2) the petition fee of $1,620.00; and (3) a proper statement of unintentional delay. Accordingly, the issue and publication fees are accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4231.

This application is being referred to Publishing Division for processing into a patent.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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PEARL COHEN ZEDEK LATZER, LLP
1500 BROADWAY
12TH FLOOR
NEW YORK, NY 10036

MAILED

NOV 10 2011

OFFICE OF PETITIONS

In re Application of :
Gavriel J. IDDAN, et al. :
Application No. 11/295,491 :
Filed : December 7, 2005 :
Attorney Docket No. P-3112-US1 :

DECISION ON PETITION

This is in response to the renewed petition under 37 CFR 1.102(c)(1) filed November 2, 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.**

708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a statement from Caleb Pollack an attorney or agent registered to practice before the Patent and Trademark Office certifying that he is in possession of evidence that applicant Gavriel Iddan is 65 years of age or older as required under MPEP § 708.02. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Joanne Hama at 571-272-2911, or in her absence David Bucci at 571-272-7099.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

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.

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

MAILED
NOV 19 2010
OFFICE OF PETITIONS

In re Patent No. 7,751,342 :
Issue Date: July 6, 2010 :
Application No. 11/295,684 : DECISION ON PETITION
Filed: December 6, 2005 :
Attorney Docket No. Q105065 :

This is a decision on the petition, filed, October 15, 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) by way of a certificate of correction in the patent.

The request is **GRANTED**.

Petitioner states that the correct assignee's name is Neopost S.A. The assignee's name was not correctly identified on the Fee(s) Transmittal form PTOL-85(b) at the time of payment of the issue fee. Accordingly, petitioner requests that a certificate of correction be issued to reflect the correct assignee on the front page of the Letters Patent.

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

The request was accompanied by a certificate of correction (and fee) as required by 3.81(b). Further, Office assignment records reflect that Neopost S.A was the assignee of record before issuance of the patent. Accordingly, as the request complies with the provisions of 37 CFR 3.81(b), it is appropriate for a certificate of correction to be processed.

[1] See MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

Inquiries concerning this decision should be directed to Alicia Kelley at (571) 272-6059. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

This matter is being referred to the Certificates of Correction Branch for processing of a certificate of correction.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

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2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

MAILED

JAN 12 2011

OFFICE OF PETITIONS

In re Patent No. 7,765,017 :
Issue Date: July 27, 2010 :
Application No. 11/295,712 : DECISION ON PETITION
Filed: December 6, 2005 :
Attorney Docket No. Q105066 :

This is a decision on the petition, filed, October 28, 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) by way of a certificate of correction in the patent.

The request is **GRANTED**.

Petitioner states that the correct assignee's name is Neopost S.A., petitioner further states that the assignee's name was not correctly identified on the Fee(s) Transmittal form PTOL-85(b) at the time of payment of the issue fee. Accordingly, petitioner requests that a certificate of correction be issued to reflect the correct assignee on the front page of the Letters Patent.

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

The request was accompanied by a certificate of correction (and fee) as required by 3.81(b). Further, Office assignment records reflect that Neopost S.A was the assignee of record before issuance of the patent. Accordingly, as the request complies with the provisions of 37 CFR 3.81(b), it is appropriate for a certificate of correction to be processed.

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[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

Inquiries concerning this decision should be directed to Alicia Kelley at (571) 272-6059. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

This matter is being referred to the Certificates of Correction Branch for processing of a certificate of correction.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

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Gregory Lubinitsky
8 Markwood Rd
Forest Hills NY 11375

MAILED

AUG 15 2011

OFFICE OF PETITIONS

In re Patent No. 7,210,975 :
Issue Date: May 1, 2007 :
Application No. 11/295,742 : ON PETITION
Filed: December 6, 2005 :
Attorney Docket No. :

This is a decision on the petition under 37 CFR 1.378(c), filed June 10, 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 May 1, 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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Alexandria, VA 22313-1450
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FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW CA 94041

MAILED

DEC 10 2010

OFFICE OF PETITIONS

In re Application of

Richard BRINDLEY, et al
Application No. 11/295,754
Filed: December 6, 2005
Attorney Docket No. 24463-10505

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 November 24, 2010.

The request is **NOT APPROVED**.

The Office will no longer approve requests from practitioners to withdraw from applications where the requesting practitioner 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 a 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 documents they file.

A review of the file record indicates that Brenda Herschbach Jarrell 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-identified address until otherwise properly notified by the applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-6735.

/Diane Goodwyn/
Diane Goodwyn
Petitions Examiner
Office of Petitions

Cc: BRENDA HERSCHBACH JARRELL
TWO INTERNATIONAL PLACE
BOSTON MA 02110

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FOX ROTHSCHILD LLP
997 Lenox Drive
Building 3
Lawrenceville NJ 08648

MAILED
MAR 13 2012
OFFICE OF PETITIONS

In re Application of :
Rode, et al. :
Application No. 11/295,853 : ON PETITION
Filed: December 6, 2005 :
Attorney Docket No. **P27,158-A-USA**

This is a decision on the petition under 37 CFR 1.137(b), filed February 8, 2012 to revive the above-identified application.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The above-identified application became abandoned September 29, 2011, for failure to file a proper reply to the final Office action mailed June 28, 2011, which set a shortened statutory period for reply of three (3) months from its mailing date.

The Request for Continued Examination and amendment filed February 8, 2012, are noted.

The application file is being forwarded to Technology Center, GAU 1657 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60610

MAILED

OCT 12 2010

OFFICE OF PETITIONS

In re Patent of Kang et al.
Patent No. 7,570,243
Issue Date: August 4, 2009
Application No. 11/295,975
Filing Date: December 6, 2005
Attorney Docket No. 12580-5199

DECISION ON REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT

This is in response to the "Second Request for Reconsideration of Patent Term Adjustment" filed May 18, 2010, stating the correct patent term adjustment is nine hundred nine (909) days.

The request for reconsideration of the patent term adjustment is **GRANTED to the extent indicated herein.**

The patent issued August 4, 2009. The patent set forth a patent term adjustment of 675 days.

A request for reconsideration of the patent term adjustment under 37 C.F.R. § 1.705(d) was filed September 30, 2009. The request correctly recognized the number of days of Office delay under 35 U.S.C. § 154(b)(1)(A) ("A Delay") is 675 days. The request asserted the patent term adjustment should be increased by 235 days as a result of delay under 35 U.S.C. § 154(b)(1)(B) ("B Delay"). In other words, the request asserted the correct patent term adjustment was 910 days, which is 675 days of A Delay increased by 235 days of B Delay.

A "Request for Recalculation of Patent Term Adjustment in View of *Wyeth*" was filed January 29, 2010.

The Office issued a decision in response to the September 30, 2009 request on March 23, 2010. The decision stated the patent term adjustment should have included a 234-day, not a 235-day, increase as a result of B Delay. The decision also stated a certificate of correction would be issued indicating the term of the patent is extended or adjusted by nine hundred nine (909) days.

The Office issued a decision in response to the January 29, 2010 request on April 21, 2010. The decision indicates the Office will issue a certificate of correction indicating the term of the patent is extended or adjusted by one thousand one hundred forty-four (1,144) days.

On April 27, 2010, the Office issued a certificate of correction indicating the term of the patent is extended or adjusted by nine hundred nine (909) days.

The instant request was filed May 18, 2010, and asserts the correct number of days of patent term adjustment is 910 days.

Even though the request filed September 30, 2009 recognized the total amount of A Delay was 675 days, the instant request asserts the total period of A Delay is 676 days.

The instant request asserts the period of A Delay includes of 669 days of delay under 37 C.F.R. § 1.703(a)(1). The request also asserts the period of A Delay includes 7 days of delay under 37 C.F.R. 1.703(a)(2) "[a]s shown by the PAIR PTA adjustment history."

A review of the record indicates the period of delay under 37 C.F.R. § 1.703(a)(1) is 675 days, not 669 days, as recognized in the request filed September 30, 2009. A review of the record fails to indicate an entry for a period of delay of 7 days has ever been entered in PAIR and the instant request fails to cite facts that would indicate such an entry would have been proper. Therefore, the Office concludes the period of A Delay is 675 days.

Since the total period of A Delay is 675 days, not 676 as asserted in the request, the patent term adjustment is 909 days, not 910 days as asserted in the request.

As previously noted, the Office issued a certificate of correction indicating the term of the patent is extended or adjusted by 909 days on April 27, 2010.

The Certificates of Correction Branch will be informed of the instant decision to ensure a certificate of correction indicating a patent term adjustment of 1,114 days is *not* be issued pursuant to the decision mailed April 21, 2010, because the patent term adjustment is 909 days as stated in the certificate of correction issued April 27, 2010.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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OCT 06 2010

OFFICE OF PETITIONS

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO IL 60610

In re Patent No. 7,595,783	:	DECISION ON REQUEST FOR
Cho et al.	:	RECONSIDERATION OF
Issue Date: September 29, 2009	:	PATENT TERM ADJUSTMENT
Application No. 11/295,976	:	AND
Filed: December 6, 2005	:	NOTICE OF INTENT TO ISSUE
Attorney Docket No. 10125-5213	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on May 20, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting correction of the patent term adjustment indicated on the above-identified patent.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein.** The term of the above-identified patent is extended or adjusted by **nine hundred sixty-six (966) days.**

On November 30, 2009, patentee submitted a petition under 37 CFR 1.705(d) and fee. On February 4, 2010, patentee filed a Request for Recalculation of Patent Term Adjustment in View of *Wyeth*. On April 19, 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 966 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 1253 days.

The Office notes that the decision of April 21, 2010, was issued in error as it accorded patentee 287 more days of patent term adjustment than were warranted. Accordingly, the decision of April 21, 2010, is withdrawn. The present decision supersedes the decision mailed on April 21, 2010.

The Office has determined that the patent term adjustment for the above-identified patent is **966 days**. The 287 additional days of adjustment will be removed.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentee is given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The Office acknowledges the previous submission of the required fee of $200.00 set forth in 37 CFR 1.18(e).

This matter is being referred to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **966 days**.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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MAY 31 2011

OFFICE OF PETITIONS

LEE G. MEYER, ESQ.
MEYER & ASSOCIATES, LLC
17462 E. POWERS DRIVE
CENTENNIAL CO 80015-3046

In re Application of	:	
Paula Saraceno et al.	:	
Application No. 11/295,992	:	DECISION ON PETITION
Filed: December 05, 2005	:	
Attorney Docket No. **50125.0001**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 28, 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 September 16, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on December 17, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuing application under 37 CFR 1.53(b); (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of continuing application No. 12/724,245.

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 March 28, 2011 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's credit card.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at (571) 272-2783.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/296,025	12/07/2005	Li Li	186.03	3018

25295 7590 11/22/2011

USDA, ARS, OTT
5601 SUNNYSIDE AVE
RM 4-1159
BELTSVILLE, MD 20705-5131

EXAMINER	
KALLIS, RUSSELL	
ART UNIT	PAPER NUMBER
1638	
MAIL DATE	DELIVERY MODE
11/22/2011	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
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P.O. Box 1450
Alexandria, VA 22313-1450
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November 22, 2011

USDA, ARS, OTT
5601 SUNNYSIDE AVE
RM 4-1159
BELTSVILLE MD 20705-5131

In re Application of :
Li Li et al. : **DECISION ON PETITION**
Application No. 11296025 :
Filed: 12/7/2005 :
Attorney Docket No. 186.03 :

This is a decision on the Petition to Accept Color Drawings under 37 C.F.R 1.84(a)(2), received in the United States Patent and Trademark Office (USPTO) December 7, 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 EFS 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 replacement drawing for Fig. 11B was filed August 13, 2008. The replacement drawing was not in color.

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.

/Don Fairchild/
Office of Data Management
Publications Branch

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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January 26, 2012

USDA, ARS, OTT
5601 SUNNYSIDE AVE
RM 4-1159
BELTSVILLE MD 20705-5131

In re Application of	:	
Li Li et al.	:	**DECISION ON PETITION**
Application No. 11296025	:	
Filed: 12/7/2005	:	***ACCEPTANCE OF COLOR***
Attorney Docket No. 186.03	:	***DRAWINGS***

This is a decision on the Petition to Accept Color Drawings under 37 C.F.R 1.84 (a) (2), received in the United States Patent and Trademark Office (USPTO) January 6, 2012.

The petition is **GRANTED**.

A grantable petition under 37 C.F.R. 1.84(a) (2) must be accompanied by the following.

1. The fee set forth under 37 C.F.R. 1.17(h),
2. Three (3) sets of the color drawings in question, or (1) set if filed via EFS, and
3. The specification contains appropriate language referring to the color drawings as the first paragraph in that portion of the specification relating to the brief description of the drawings.

The petition was accompanied by all of the required fees and drawings. The specification contains the appropriate language. Therefore, the petition is GRANTED.

Telephone inquires relating to this decision may be directed to the undersigned in the Office of Data Management at 571-272-4200.

/Don Fairchild/
Office of Data Management
Publications Branch

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SEP 13 2010

OFFICE OF PETITIONS

HAHN LOESER & PARKS, LLP
One GOJO Plaza
Suite 300
AKRON OH 44311-1076

In re Patent No. 7,695,544	:	DECISION ON REQUEST
Iwasaki, et al.	:	FOR
Issue Date: April 13, 2010	:	RECONSIDERATION OF
Application No. 11/296,198	:	PATENT TERM ADJUSTMENT
Filed: December 7, 2005	:	and
Atty Docket No. 201762.00001	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on June 4, 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 and seventy-one (771) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by seven hundred and seventy (770) days is **GRANTED to the extent indicated herein.**

Patentees dispute the reductions of 120 days to the patent term adjustment pursuant to 37 CFR 1.704(c)(10) for the filing of an amendment under 37 CFR 1.132 and terminal disclaimer on August 13, 2009. Patentees' assert the reduction to the patent term adjustment under 37 CFR 1.704(c)(10) should be 15 days. Patentees' argument has been considered, and is persuasive to the extent indicated below.

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;

In this instance, the record reveals that the Office took action in response to the filing of amendment under § 1.312 and terminal disclaimer on August 28, 2009. Accordingly, the period of adjustment of the term of the patent should be reduced by 16 days, beginning on the date the amendment under 37 CFR 1.312 and terminal disclaimer was filed, August 13, 2009 and ending on the mailing date of the response to the amendment under 37 CFR 1.312 and terminal disclaimer was mailed, August 28, 2009. Accordingly, the period of reduction of 120 days will be removed and a period of reduction of 16 days will be entered[1].

Accordingly, the patent term adjustment is 770 days (523 days of A delay + 492 days of B delay - 116 days of overlap - 129 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.

---

[1] It is noted that patentees assert that only 15 days of reduction to the patent term adjustment should be entered for the filing of the amendment under 37 CFR 1.312, however, the period of reduction to the patent term adjustment under 37 CFR 1.704(c)(10) begins on, and includes, the date the amendment under 37 CFR 1.312 was filed and ends on, and includes, the mailing date of the response to the amendment under 37 CFR 1.312. "When a period is indicated (in 37 CFR 1.703 or 1.704) as 'beginning' on a particular day, that day is included in the period, in that such day is 'day one' of the period and not 'day zero.'" MPEP 2731. "For example, a period beginning on April 1 and ending on April 10 is ten (and not nine) days in length." Id. Thus, in this instance, the period of reduction to the patent term adjustment is 16 days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **seven hundred and seventy (770)** days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,695,544 B2

DATED : Apr. 13, 2010

INVENTOR(S) : Iwasaki 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 (666) days

Delete the phrase "by 666 days" and insert – by 770 days--

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7304607	2007-12-04	11296240	2005-12-06	UH-OTT-P4-D1

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	◉	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

○ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

◉ The assignee of record of the entire interest

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

The Assignee of record of the entire interest			
Under 37 CFR 3.71 an assignee becomes of record by filing a statement in compliance with 37 CFR 3.73(b). Signature requirements are set forth in 37 CFR 1.4(d), and the undersigned certifies that he / she is empowered to act on behalf of the assignee of the entire interest			
Signature	/Jonathan Roberts/	Date (YYYY-MM-DD)	2012-01-10
Name	Jonathan Roberts		
Enter Reel and Frame Number		Remove	
Reel Number	019929	Frame Number	0795
Click ADD for additional Reel Number and Frame Number		Add	

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 7304607
Issue Date: December 4,2007
Application No. 11296240
Filed: December 6,2005
Attorney Docket No. UH-OTT-P4-D1

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed January 10,2012 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of January 10,2012 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

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.
11/296,343	12/08/2005	Yoshihiro Sawada	2005_1952A	2354

513 7590 01/18/2011

WENDEROTH, LIND & PONACK, L.L.P.
1030 15th Street, N.W.,
Suite 400 East
Washington, DC 20005-1503

EXAMINER	
EOFF, ANCA	

ART UNIT	PAPER NUMBER
1722	

NOTIFICATION DATE	DELIVERY MODE
01/18/2011	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ddalecki@wenderoth.com
eoa@wenderoth.com

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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wk

Mailed: 01/18/11

In re application of : DECISION ON
Sawada et al. : PETITION
Serial No. 11/296,343 :
Filed: December 8, 2005 :
For: **LITHOGRAPHIC RINSE SOLUTION AND METHOD FOR FORMING PATTERNED RESIST LAYER USING THE SAME**

This is a decision on the PETITION FILED UNDER 37 CFR 1.181 on October 1, 2010 to withdraw the final status of the office action dated September 24, 2010.

A review of the file shows that the application has been allowed.

DECISION

The petition for withdrawal of finality is **DISMISSED.**

/W. GARY JONES/
W. Gary Jones
Director, Technology Center 1700
Chemical and Materials Engineering

WENDEROTH, LIND & PONACK, L.L.P.
1030 15th Street, N.W.,
Suite 400 East
Washington DC 20005-1503

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MAILED
OCT 17 2011
OFFICE OF PETITIONS

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

In re
I-Ru Liu
Application No. 11/296,363
Filed: December 8, 2005
Patent No. 7,412,373
Issued: August 12, 2008
Attorney Docket No. 4459-0341PUS1

DECISION

This is a decision on the fee deficiency submission under 37 CFR 1.28(c), filed September 14, 2011.

The fee deficiency submission under 37 CFR 1.28 of $1585, representing $180 for the basic filing fee, $290 search fee, $120 examination fee, $135 for additional claims, $70 extension of time, and $790 issue fee, is hereby accepted.

The change of status to large entity has been entered.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : April 5, 2011

TO SPE OF : ART UNIT 2836

SUBJECT : Request for Certificate of Correction for Appl. No.: 11296391 Patent No.: 7321485

CofC mailroom date: Mar. 14, 2011

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Certificates of Correction Branch

703-756-1814

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

/Jared Fureman/ 2836

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

SPE Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450

MAILED

APR 04 2011

OFFICE OF PETITIONS

Novak Druce & Quigg LLP
300 New Jersey Ave, NW
Fifth Floor
Washington DC 20001

In re Application of	:	
Bodo ODENDALL	:	DECISION GRANTING PETITION
Application No. 11/296,507	:	UNDER 37 CFR 1.137(b)
Filed: December 8, 2005	:	
Atty. Docket No.: 8369.020.US0000	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 21, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action (mailing date restarted June 17, 2010), which set a shortened statutory reply period of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. The application thus became abandoned on September 18, 2010.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(d) was unintentional; and (4) any terminal disclaimer (and fee set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d).

The present petition satisfies the conditions for revival pursuant to 37 CFR 1.137(b) by including (1) a reply in the form of a Request for Continued Examination (RCE) and RCE fee, and a submission required by 37 CFR 1.114, (2) a petition fee of $1620, and (3) a proper statement of unintentional delay. The reply to the outstanding Office action is accepted as having been unintentionally delayed.

General inquiries relating to this decision should be directed to Robert DeWitty, Petitions Examiner, Office of Petitions (571-272-8427).

The application file will be referred to Technology Center Art Unit 3748 for further action on the filed Response.

Rajneesh Krishnamurthy

for David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

KATTEN MUCHIN ROSENMAN LLP
575 MADISON AVENUE
NEW YORK NY 10022-2585

MAILED

AUG 22 2011

OFFICE OF PETITIONS

In re Application of :
Keiichiro Toyama :
Application No. 11/296,692 : DECISION GRANTING PETITION
Filed: December 7, 2005 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. SCEP 22.290 (100809-00304 :

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 9, 2011 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Terri Johnson at (571) 272-2991.

This application is being referred to Technology Center AU 3716 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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WALTER A. HACKLER, Ph.D.
ATTORNEY OF RECORD
SUITE B
2372 S.E. BRISTOL
NEWPORT BEACH CA 92660-0755

MAILED
JAN 23 2012
OFFICE OF PETITIONS

In re Patent No. 7,372,266
Issued: 05/13/2008
Application No. 11/296,727
Filed: 12/07/2005
Attorney Docket No. 3441

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed December 30, 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

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STATTLER-SUH PC / NETLOGIC
60 SOUTH MARKET STREET
SUITE 480
SAN JOSE CA 95113

MAILED

DEC 16 2010

OFFICE OF PETITIONS

In re
Patent No. 7,432,750
Issued: October 7, 2008
Application No. 11/296,786
Filed: December 7, 2005

DECISION

This is a decision on the fee deficiency submission under 37 CFR 1.28(c), filed October 1, 2010.

The fee deficiency submission under 37 CFR 1.28 of$710 for the basic filing fee is hereby accepted.

The change of status to large entity has been entered.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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.
11/296,830	12/07/2005	Peijun Jiang	2005B163	1118

23455 7590 02/01/2012
EXXONMOBIL CHEMICAL COMPANY
5200 BAYWAY DRIVE
P.O. BOX 2149
BAYTOWN, TX 77522-2149

EXAMINER	
LENIHAN, JEFFREY S	
ART UNIT	PAPER NUMBER
1765	
MAIL DATE	DELIVERY MODE
02/01/2012	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT and TRADEMARK OFFICE
UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

Mailed: 2/1/12

In re Patent No. 7,935,760 :
Issue Date: May 3, 2011 : DECISION
Appl. No.: 11/296830 : GRANTING
Filed: Dec. 7, 2005 : PETITION 37CFR1.324
For: **PROCESS FOR MAKING A HETEROGENEOUS POLYMER BLEND**

This is a decision on the petition filed on Dec 13th 2006 to correct inventorship under 37 CFR 1.48(a). This petition is being treated under 37 CFR 1.324 since the patent has issued

The Petition is **GRANTED**.

The patented file is being forwarded to Certificate of Corrections Branch for issuance of a certificate adding the name of Weiqing Weng as an inventor.

James J. Seidleck, Supervisory Patent Examiner
Art Unit 1765
Technology Center 1700

Exxonmobile Chemical Company
5200 Bayway Drive
P.O. Box 2149
Baytown TX 77522-2149

UNITED STATES PATENT AND TRADEMARK OFFICE

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LANDO & ANASTASI, LLP
ONE MAIN STREET, SUITE 1100
CAMBRIDGE MA 02142

MAILED

OCT 26 2011

OFFICE OF PETITIONS

In re Patent No: 7,379,241
Issued: May 27, 2008
Application No. 11/296,890
Filed: December 8, 2005
Attorney Docket No. P0743-701010

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed September 27, 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 **DISMISSED**.

The request under 37 CFR 1.28 cannot be accepted at this time since it appears that the petition is not signed by a person having authority to act in the above-identified patent.

Petitioner's attention is directed to 37 CFR 1.33(b), which states.

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.

Further, that part of the request that is directed to the maintenance fee deficiency payment is not signed by the proper party. Gill Lennon is not authorized to sign the request. Accordingly, the request cannot be accepted until it is signed by all inventors, an attorney or agent registered to practice before the U.S. Patent and Trademark Office or the assignee of the entire interest under 37 CFR 3.73(b).

Additionally, the current large entity three and a half year maintenance fee is $1,130.00. Petitioner has submitted $490.00 towards the required $640.00 deficiency fee payment, thus creating a $150.00 shortage.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: U.S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is (571) 273-8300.

Additionally, the address given on the request 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.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

cc: GILL LENNON
DENNEMEYER & CO LTD
REGENT HOUSE HEATON LANE
STOCKPORT CHESHIRE
ENGLAND SK4 1BB

UNITED STATES PATENT AND TRADEMARK OFFICE

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LANDO & ANASTASI, LLP
ONE MAIN STREET, SUITE 1100
CAMBRIDGE MA 02142

MAILED

NOV 29 2011

OFFICE OF PETITIONS

In re Patent No. 7,379,241 :
Issued: May 27, 2008 :
Application No. 11/296,890 : NOTICE
Filed: December 8, 2005 :
Attorney Docket No. P0743-701010 :

This is a notice regarding your renewed request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed November 3, 2011.

On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED.**

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

It is not apparent whether the person signing the instant petition was ever given a power of attorney or authorization of agent regarding this patent. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts. 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.

Additionally, petitioner has submitted a deficiency fee of $490.00 towards the current required $565.00 large entity three and one half year maintenance fee, thus creating a $75.00 shortage. This amount will be charged to petitioner's deposit account as authorized November 3, 2011.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Gordon Stewart
Thermo Fisher Scientific Inc.
ATTN: IP Department
355 River Oaks Parkway
San Jose, California 95134

UNITED STATES PATENT AND TRADEMARK OFFICE

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SMARTDRIVE SYSTEMS, INC.
P.O. BOX 757
LA JOLLA, CA 92038

MAILED

SEP 28 2011

OFFICE OF PETITIONS

In re Application of :
James Plante :
Application No. 11/296,906 : ON PETITION
Filed: December 8, 2005 :
Attorney Docket No. 266.1 :

This is a decision on the petition under 37 CFR 1.137(b), filed September 20, 2011, to revive the above-identified application.

The application became abandoned for failure to file a reply to the non-final Office action mailed November 6, 2009. A Notice of Abandonment was mailed on June 8, 2010.

Since the petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $810; and (3) a proper statement of unintentional delay, the petition is **GRANTED**.

This application file is being referred to Technology Center Art Unit 3689 for review of the amendment submitted with the present petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SUMMA ADDITON & ASHE PA
11610 NORTH COMMUNITY HOUSE ROAD
SUITE 200
CHARLOTTE NC 28277

MAILED
APR 25 2011
OFFICE OF PETITIONS

In re Application of :
Rha, et al. :
Application No. 11/296,948 : ON PETITION
Filed: December 8, 2005 :
Attorney Docket No. 6250.008 :

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed April 1, 2011.

The petition under 37 CFR 1.181 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 21, 2010. This Office action set an extendable period for reply of three (3) months. No extensions of time under 37 CFR 1.136(a) were obtained. No reply having been received, the application became abandoned on October 22, 2010. The Office mailed a Notice of Abandonment on February 22, 2011.

Petitioner states that he did not receive the July 21, 2010 Office action. In support thereof, petitioner has included a copy of a master docket report, showing all of the firm's replies docketed for due dates between July 21, 2010 to October 21, 2010.

To establish nonreceipt of an Office action, a petitioner must: 1) include a statement that the Office action was not received; 2) attest to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and 3) include a copy of the docket record where the nonreceived Office action would have been entered had it been received and docketed.[1] A proper docket report consists of a "docket record where the nonreceived Office action would have been entered had it been received and docketed."[2] "For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket record showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted..."[3]

Petitioner has met the above requirements. Accordingly, it is concluded that petitioner did not receive the July 21, 2010 Office action.

The application is being forwarded to Group Art Unit 1782 for re-mailing of the July 21, 2010 Office action, setting a new period for reply.

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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[1] See MPEP 711.03(c)(II).

[2] MPEP 711.03(c)(II) (emphasis added).

[3] Id.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED
APR 05 2012
OFFICE OF PETITIONS

Mitchell A. Stein, Esq.
STEIN LAW, P.C.
Suite 4
24 Woodbine Avenue
Northport NY 11768

In re Patent of :
Jason Gianelli :
Patent No. 7211279 :
Issue Date: 05/01/2007 :
Application No. 11/297048 :
Filing or 371(c) Date: 12/08/2005 : ON PETITION
Title of Invention: :
NUTRACEUTICAL METHOD AND :
ADDITIVE FOR IMPROVING HUMAN :
PHYSIOLOGY :

This is a decision on the renewed petition under 37 CFR § 1.378(c), filed February 21, 2012, to reinstate the above-identified patent.

The petition is **GRANTED**.

The patent issued May 1, 2007. The grace period for paying the three and one-half (3½) year maintenance fee expired on May 1, 2011. Therefore, since this petition was filed within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), this petition was timely filed under the provisions of 37 CFR 1.378(c).

Accordingly, the maintenance fee in this case is hereby accepted and the above-identified patent is hereby reinstated as of the mail date of this decision.

It is noted that Petitioner included a request to change the correspondence address in an application, with the present petition. Petitioner is advised that in patented files: requests for changes of correspondence address, powers of attorney, revocations of powers of attorney, withdrawal of attorney and submissions under 37 CFR 1.501: Designation of, or changes to, a fee address, should be addressed to Mail Stop M Correspondence.

The file is being forwarded to the files repository.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

/DLW/

Derek L. Woods
Attorney
Office of Petitions

Enclosure: PTO/SB/47 FEE ADDRESS INDICATION FORM

CC: JASON GIANELLI
PO BOX 2784
HUNTINGTON ST. STATION
NEW YORK, NY 11746

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: 000228C3	Patent Number: 7,664,193
Filing Date (or 371(b) or (f) Date): 12-07-2005	Issue Date: 2-16-2010
First Named Inventor: AHMAD JALALI	
Title: MULTIPLEXING OF REAL TIME SERVICES AND NON-REAL TIME SERVICES FOR OFDM SYSTEMS	

PATENTEE HEREBY REQUESTS RECALCULATION OF THE PATENT TERM ADJUSTMENT (PTA) UNDER 35 USC 154(b) INDICATED ON THE ABOVE-IDENTIFIED PATENT. THE PATENTEE'S SOLE BASIS FOR REQUESTING THE RECALCULATION IS THE USPTO'S PRE-*WYETH* INTERPRETATION OF 35 U.S.C. 154(b)(2)(A).

Note: This form is only for requesting a recalculation of PTA for patents issued before March 2, 2010, if the sole basis for requesting the recalculation is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A). See Instruction Sheet on page 2 for more information.

Patentees are reminded that to preserve the right to review in the United States District Court for the District of Columbia of the USPTO's patent term adjustment determination, a patentee must ensure that he or she also takes the steps required under 35 U.S.C. 154(b)(3) and (b)(4) and 37 CFR 1.705 in a timely manner.

**Wyeth v. Kappos*, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).

Signature /Kenyon S. Jenckes/	Date 08-10-2010
Name (Print/Typed) Kenyon S. Jenckes	Registration Number 41873

Note: *Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required in accordance with 37 CFR 1.33 and 11.18. Please see 37 CFR 1.4(d) for the form of the signature. If necessary, submit multiple forms for more than one signature, see below*.*

☑ *Total of 1 forms are submitted.

The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

PTO/SB/131 (01-10)
Approved for use through 02/28/2011. OMB 0651-0020
U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

Instruction Sheet for:
REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH**

(Not to be Submitted to the USPTO)

This form is only for requesting a recalculation of PTA for patents issued before March 2, 2010, if the sole basis for requesting the recalculation is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A).

This form must be filed within 180 days of the day the patent was granted, with the following exception:

> Patentees who received a decision from the USPTO under the USPTO's pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A) may file a request for reconsideration of that decision if such a request for reconsideration is filed within **two months** of the date of the decision (37 CFR 1.181(f)). If the patentee's sole basis for requesting reconsideration of the decision is the USPTO's pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A), the request for reconsideration need only state that reconsideration is being requested in view of Wyeth (this form may be used for this purpose if it is filed within **two months** of the date of the decision from the USPTO).

Do not use this form if the application has been allowed, but not yet issued as a patent.

1. **For patents issued before March 2, 2010:** A request for reconsideration under 37 CFR 1.705(d) and the fee set forth in 37 CFR 1.18(e) are not required, provided that the patentee's sole basis for requesting recalculation of the PTA in the patent is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A) and this form is filed within 180 days of the day the patent was granted.

2. **For patents issued on or after March 2, 2010 (do not use this form):** Patentees seeking a revised PTA in a patent issued on or after March 2, 2010, must file a request for reconsideration under 37 CFR 1.705(d) that complies with the requirements of 37 CFR 1.705(b)(1) and (b)(2) within two months of the day the patent issued.

For more information, see "Notice Concerning Calculation of the Patent Term Adjustment With Respect to the Overlapping Delay Provision of 35 U.S.C. 154(b)(2)(A)" available on the USPTO Web site at http://www.uspto.gov/patents/law/notices/2010.jsp.

**Wyeth v. Kappos*, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO, CA 92121

Mail Date: 08/17/2010

Applicant	: Ahmad Jalali	: DECISION ON REQUEST FOR
Patent Number	: 7664193	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/297,244	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/07/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **904** 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 : 7/19/11

TO SPE OF : ART UNIT: 2876

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/297,320 Patent No. 7,878,409

CofC mailroom date 7/15/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

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: _____

_____

_____

_____

SPE

2876
Art Unit

PTOL-306 (REV. 7/03) U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SIDLEY AUSTIN LLP
717 N. HARWOOD
SUITE 3400
DALLAS TX 75201

MAILED

OCT 01 2010

OFFICE OF PETITIONS

In re Patent No. 7,595,046 :
Issued: September 29, 2009 : LETTER REGARDING
Application No. 11/297,327 : PATENT TERM ADJUSTMENT
Filed: December 9, 2005 :
Attorney Docket No. 22338-00912 :

This is in response to the "REQUEST FOR RECONSIDERATION OF PTA UNDER 37 C.F.R. § 1.705(d)," filed June 17, 2010. Applicant asserts that the correct patent term adjustment is 537 days.

The request for review of the patent term adjustment (PTA) is **DISMISSED** to the extent that it requests correction of the patent term adjustment.

Patentees are given **THIRTY (30) DAYS or ONE (1) MONTH, whichever is longer,** from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

On September 29, 2009, the above-identified application matured into US Patent No. 7,595,046 with a patent term adjustment of 245 days. On November 25, 2009 Applicant filed a REQUEST FOR RECONSIDERATION OF PTA UNDER 37 C.F.R. § 1.705(d) and on February 16, 2010, a Request for Recalculation of Patent Term Adjustment in View of Wyeth. On May 18, 2010, the Office mailed a decision granting the petition under 37 CFR 1.705(d) to the extent that a certificate of correction would be issued indicating that the term of the patent was extended or adjusted by 539 days. Applicant requests the correction on the basis that the term of the patent extending beyond the expiration of U.S. Patent No. 7,314,619 has been disclaimed as described in the terminal disclaimer filed on February 13, 2009.

It is noted that the filing of the terminal disclaimer on February 13, 2009 has no effect on the determination of patent term adjustment *set forth* on any patent issuing from this application. It is true that 35 U.S.C. 154(b)(2)(B) provides that:

> No patent the term of which has been disclaimed beyond a specified date may

> be adjusted under this section beyond the expiration date specified in the disclaimer.

Moreover, 37 CFR § 1.703(g) provides that:

> No patent, the term of which has been disclaimed beyond a specified date, shall be adjusted under § 1.702 and this section beyond the expiration date specified in the disclaimer.

However, the provisions of § 154(b), for adjustment due to examination delay, apply to original applications, other than designs, filed on or after May 29, 2000. The Office calculates patent term adjustment for examination delay in all eligible applications. In calculating the patent term adjustment, the Office does not differentiate between applications that have terminal disclaimers and those that do not. Nor does the Office undertake the burdensome task of reviewing every application with a terminal disclaimer to determine if the patent term adjustment accorded would adjust the term beyond the expiration date specified in the disclaimer.

Rather, on issuance of the application, in compliance with 35 U.S.C. 154(b) and 37 CFR § 1.703(g), it is indicated in the patent that the patent term adjustment indicated therein is subject to any disclaimer. Moreover, it is also stated therein that the patent is subject to a terminal disclaimer.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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STAAS & HALSEY LLP
1201 NEW YORK AVENUE NW, SUITE 700
WASHINGTON, DC 20005

MAILED

APR 14 2011

OFFICE OF PETITIONS

In re Application of :
Masafumi KATOH, et *al.* :
Application No. 11/297,334 : DECISION GRANTING PETITION
Filed: December 9, 2005 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **1538.1069** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed April 11, 2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on March 21, 2011 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 2436 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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BORDEN LADNER GERVAIS LLP
1100-100 QUEEN ST
OTTAWA ON K1P 1J9 CA CANADA

MAILED
MAY 18 2011
OFFICE OF PETITIONS

In re Application of :
Alan R. Holden :
Application No. 11/297,336 : NOTICE
Patent No. 7,242,334 :
Filed: December 09, 2005 :
Attorney Docket No. **PAT 2841-2**

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 March 21, 2011.

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-2783.

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions

cc: **BORDEN LADNER GERVAIS LLP**
100 QUEEN STREET
SUITE 1100
OTTAWA, ON
CANADA K1P 1J9

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NIXON PEABODY, LLP
401 9TH STREET, NW
SUITE 900
WASHINGTON, DC 20004-2128

Mail Date: 10/07/2010

Applicant	: Vinay Venkatrao Vyas	: DECISION ON REQUEST FOR
Patent Number	: 7642069	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/297,405	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/09/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **728** 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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Real Simard
Martin Sinard
106
3591 Gouin E.
Montreal QC H1H 5V7 CA
CANADA

MAILED
DEC 06 2010
OFFICE OF PETITIONS

In re Application of	:	
Simard et al.	:	
Application No.: 11/297538	:	DECISION ON
Filing or 371(c) Date: 12/08/2005	:	PETITION
Title of Invention:	:	
TIRE HANDLING APPARATUS	:	

This is a decision in response to the "Petition to Revive Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b), filed July 30, 2010.

This Petition is hereby **dismissed**.

Any further petition must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under [insert the applicable code section]." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

Background

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Noncompliant Amendment ("Notice"), mailed August 10, 2009. The Notice set a one (1) month period for reply, and provided for extensions of time under 37 CFR 1.136(a). Applicant filed a reply to the Notice on August 31, 2009; September 8, 2009 and January 26, 2009; however, the replies were not complete and proper reply. No complete and proper reply having been received, the application became abandoned on September 11, 2009[1]. A Notice of Abandonment was mailed February 19, 2010.

The present petition

Applicants file the present petition and $210.00 towards the petition fee. Applicants state that

[1] A review of Office records reveal that Applicants failed to file extension of time requests and fees with the reply filed January 26, 2010. Accordingly, the application became abandoned as of midnight September 11, 2009.

[a]lthough the SB64 form states that a fee for $810.00 fee was filed on March 16, 2010, it was applied towards a petition for unavoidable abandonment which is currently $210.00 in order to avoid requesting a refund for overpayment of an unavoidable abandonment petition, Applicants are enclosing a balance payment of $210.00 to cover the total cost of both an unavoidable and unintentional petitions.

A Grantable Petition Under 37 CFR 1.137(b)

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.

The petition fee

As to item (2), Applicants are advised that before the merits of Applicants' petition may be considered, the petition fee must be submitted. The fee for a petition to revive an application based upon an unintentionally delayed response to an Office communication is currently $810.00.

A review of the application file reveals that Applicants filed a petition to revive an unavoidably abandoned application on March 16, 2010, and included the petition fee of $270.00. The Office has no record of receiving $810.00 from Applicants. Moreover, the fee for the petition to revive an unavoidably abandoned application is $270.00, not $210.00. It is noted that applicants infer that they have submitted $810.00 on March 16, 2010. If Applicants have evidence of such submission, Applicants should file such evidence in any renewed petition.

Conclusion

Applicant must submit the balance of the petition fee, $600.00, before the petition may be considered. Applicant is also advised that a list of the current fees are available at www.uspto.gov/main/howtofees.htm.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Director for Patents
PO Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3232. All other inquiries should be directed to the applicable Office.

/DLW/

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Real Simard
Martin Sinard
106, 3591 Gouin E.
Montreal QC H1H 5V7 CA
CANADA

MAILED
MAR 11 2011
OFFICE OF PETITIONS

In re Application of	:	
Simard et al.	:	
Application No.: 11/297538	:	DECISION ON
Filing or 371(c) Date: 12/08/2005	:	PETITION
Title of Invention:	:	
TIRE HANDLING APPARATUS	:	

This is a decision in response to the renewed "Petition to Revive Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b)," filed December 21, 2010.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Noncompliant Amendment ("Notice"), mailed August 10, 2009. The Notice set a one (1) month period for reply, and provided for extensions of time under 37 CFR 1.136(a). Applicant filed a reply to the Notice on August 31, 2009; September 8, 2009 and January 26, 2009; however, the replies were not complete and proper reply. No complete and proper reply having been received, the application became abandoned on September 11, 2009[1]. A Notice of Abandonment was mailed February 19, 2010.

Applicant files the present petition and Amendment in response to the Notice. The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that the petition includes (1) the reply in the form of an Amendment (the Examiner has approved the Amendment); (2) the petition fee; and (3) the required statement of unintentional delay. Accordingly, the reply is accepted as having been unintentionally delayed.

This application is being referred to Technology Center Art Unit 3652 for processing of the reply to the Notice filed with the petition in the normal course of business.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3232.

/DLW/

Derek L. Woods
Attorney
Office of Petitions

[1] A review of Office records reveal that Applicants failed to file extension of time requests and fees with the reply filed January 26, 2010. Accordingly, the application became abandoned as of midnight September 11, 2009.

UNITED STATES PATENT AND TRADEMARK OFFICE

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SCHOX PLC
500 3RD STREET, SUITE 515
SAN FRANCISCO CA 94107

MAILED
SEP 30 2011
OFFICE OF PETITIONS

In re Patent No. 7,328,722 :
Issue Date: 12 February, 2008 :
Application No. 11/297,667 : ON PETITION
Filed: 7 December, 2005 :
Attorney Docket No. ACCU-P11 :

This is a decision on the petition filed on 18 August, 2011, under 37 C.F.R. §1.27(g)(2) requesting that status as a Small Entity be removed.

NOTE:

In view of their duty of candor to the Office to properly inquire to ascertain the accuracy of representations made before the Office (*see*: 37 C.F.R. §1.4, §10.18, MPEP §410), Petitioners always are reminded of the responsibility to review their records and submit accurate information to the Office.

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**.

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.

Patent No. 7,328,722
Application No. 11/297,667

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 IFW Files Repository in due course.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[2]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

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[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on Petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

[2] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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PAUL W. MARTIN
NCR CORPORATION, LAW DEPT.
3097 SATELLITE BLVD., 2ND FLOOR
DULUTH GA 30096

MAILED
JUL 18 2011
OFFICE OF PETITIONS

In re Application of :
VAN DEMARK, et al :
Application No. 11/297,706 : **DECISION ON PETITION**
Filed: December 8, 2005 :
Attorney Docket No. 12288 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 30, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of October 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 January 20, 2011. A Notice of Abandonment was mailed May 26, 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 $810, and the submission required by 37 CFR 1.114; (2) the petition fee of $1620; and (3) a statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

This application is being referred to Technology Center AU 2854 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

/Diane C. Goodwyn/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MARCUS JAMES CURRY
5912 GULLSTRAND STREET
SAN DIEGO, CALIFORNIA 92122

MAILED

APR 04 2012

OFFICE OF PETITIONS

In re Application of :
Marcus James **CURRY** :
Application No. 11/297,772 : DECISION ON PETITION
Filed: December 8, 2005 :
Attorney Docket No. :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 3, 2012, 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 28, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed February 28, 2007. Accordingly, the date of abandonment of this application is May 29, 2007. The Office mailed a Notice of Abandonment on June 25, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $870.00 and the publication fee of $300.00, (2) the petition fee of $930.00; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-0602.

This application is being referred to Office of Data Management for processing into a patent.

/Thurman K. Page/

Thurman K. Page
Petitions Examiner
Office of Petitions

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7107634	2006-09-19	11297846	2005-12-08	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	◉	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

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	/Stephen S. Hodgson/	Date (YYYY-MM-DD)	2010-11-28
Name	Stephen S. Hodgson	Registration Number	41075

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 7107634
Issue Date: September 19,2006
Application No. 11297846
Filed: December 8,2005
Attorney Docket No. P-123837.03

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed November 28,2010 ,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 28,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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PARK LAW FIRM
3255 WILSHIRE BLVD
SUITE 1110
LOS ANGELES CA 90010

MAILED

SEP 28 2011

OFFICE OF PETITIONS

In re Patent No. 7,315,608 :
Issue Date: January 1, 2008 :
Application No. 11/297,921 : NOTICE
Filed: December 9, 2005 :
Attorney Docket No. 2095.03 :

This is a notice regarding your request filed August 26, 2011, for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **NOT ACCEPTED**.

Petitioner only provided the calculation of the deficiency owed. A request for acceptance of a fee deficiency submission under 37 CFR 1.28 petitioners is required to provide an itemization of the deficiency payment. Petitioner's attention is directed to 37 CFR 1.28(c)(2) (ii) which states:

> (2) *Payment of deficiency owed.* The deficiency owed, resulting from the previous erroneous payment of small entity fees, must be paid.
>
> (ii) *Itemization of the deficiency payment.* An itemization of the total deficiency payment is required. The itemization must include the following information:
>
> (A) Each particular type of fee that was erroneously paid as a small entity, (*e.g.*, basic statutory filing fee, two-month extension of time fee) along with the current fee amount for a non-small entity;
>
> (B) The small entity fee actually paid, and when. This will permit the Office to differentiate, for example, between two one-month extension of time fees erroneously paid as a small entity but on different dates;

(C) The deficiency owed amount (for each fee erroneously paid); and

(D) The total deficiency payment owed, which is the sum or total of the individual deficiency owed amounts set forth in paragraph (c)(2)(ii)(C) of this section.

Accordingly, the request cannot be accepted at this time until petitioner provides the itemization of the deficiency payment.

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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TWO NORTH MARKET STREET
THIRD FLOOR
SAN JOSE CA 95113

MAILED

SEP 02 2010

OFFICE OF PETITIONS

In re Application of	:	
William S. Herz et al.	:	
Application No. 11/297,985	:	DECISION ON PETITION
Filed: December 08, 2005	:	
Attorney Docket No. **NVID-P001822**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 11, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, June 02, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on September 03, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1620, and (3) a proper statement of unintentional delay. Accordingly, the response to the non-final office action of June 02, 2009 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at (571) 272-2783.

This application is being referred to Technology Center AU 2156 for appropriate action on the concurrently filed amendment.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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PO BOX 10395
CHICAGO IL 60610

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APR 08 2011

OFFICE OF PETITIONS

In re Application of :
Carlgren et al. :
Application No. 11/297,998 : ON PETITION
Filed: December 8, 2005 :
Attorney Docket No. 8627/1086 :

This is a decision on the petition, filed August 27, 2010, which is being treated as a petition under 37 CFR 1.181, requesting withdrawal of the holding of abandonment in the above-identified application. Petitioner has also requested the instant petition be treated under 37 CFR 1.137(b), if necessary.

The petition under 37 CFR 1.181 is **GRANTED**.

This application was held abandoned for failure to timely respond to the Notice of Allowance mailed March 9, 2010, which set a statutory period for reply of three (3) months. Accordingly, a reply was due on or before June 9, 2010. A Notice of Abandonment was mailed July 1, 2010.

Petitioner states that during a telephone conference on June 9, 2010, Examiner Hartley and Examiner Samala agreed to issue a Supplemental Notice of Allowance which would restart the time period for reply. However, the Supplemental Notice of Allowance with Supplemental Examiner's Amendment issued on June 10, 2010 did not restart the period for reply. Accordingly, the Office of Data Management issued a Notice of Abandonment for failure to timely response to the Notice of Allowance mailed on March 9, 2010.

The undersigned has conferred with Examiner Samala, who has consented with the petitioner. A new period for reply should have started when the June 10, 2010 Office action was mailed. Accordingly, the holding of abandonment for failure to timely file a reply to the Notice of Allowance of March 9, 2010 is hereby withdrawn and the application restored to pending status.

As petitioner has now provided payment of the issue and publication fees, the application will be referred to the Office of Data Management for processing into a patent.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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INTEL CORPORATION
c/o CPA Global
P.O. BOX 52050
MINNEAPOLIS MN 55402

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OCT 13 2010

OFFICE OF PETITIONS

In re Application of :
Kumar : DECISION ON PETITION
Application No. 11/298,046 :
Filed: December 8, 2005 :
Atty. Dkt. No.: 42P21340 :

This is a decision on the petition under 37 CFR 1.137(b), filed August 18, 2010.

The petition is **GRANTED**.

This application became abandoned July 6, 2010 for failure to timely reply to the Notice of Allowance and Issue Fee Due (Notice) mailed April 5, 2010. The Notice set a three (3) month statutory period of time for reply. Notice of Abandonment was mailed July 19, 2010.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D).

The instant petition has been carefully reviewed and found in compliance with the requirements set forth above.

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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SMARTDRIVE SYSTEMS, INC.
P.O. BOX 757
LA JOLLA CA 92038

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OCT 11 2011

OFFICE OF PETITIONS

In re Application of :
Plante :
Application No. 11/298,069 : DECISION ON PETITION
Filed: December 9, 2005 :
Attorney Docket No. 266.2 :
:

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 20, 2011, to revive the above-identified application.

The petition is **DISMISSED.**

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

This above-identified application became abandoned for failure to timely file a reply to the restriction requirement mailed June 22, 2007. The restriction requirement set a one (1) 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 July 23, 2007. A Notice of Abandonment was mailed on February 11, 2008.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either

the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. *See* MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item (3).

As to 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 periods (1) and (2).

As to Period (1):

The patent statute at 35 U.S.C. § 41(a)(7) authorizes the Director to revive an "unintentionally abandoned application." The legislative history of Public Law 97-247 reveals that the purpose of 35 U.S.C. § 41(a)(7) is to permit the Office to have more discretion than in 35 U.S.C. §§ 133 or 151 to revive abandoned applications in appropriate circumstances, but places a limit on this discretion, stating that "[u]nder this section a petition accompanied by either a fee of $500 or a fee of $50 would not be granted where the abandonment or the failure to pay the fee for issuing the patent was intentional as opposed to being unintentional or unavoidable." [emphasis added]. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6-7 (1982), reprinted in 1982 U.S.C.C.A.N. 770-71. The revival of an intentionally abandoned application is antithetical to the meaning and intent of the statute and regulation.

35 U.S.C. § 41(a)(7) authorizes the Director to accept a petition "for the revival of an unintentionally abandoned application for a patent." As amended December 1, 1997, 37 CFR 1.137(b)(3) provides that a petition under 37 CFR 1.137(b) must be accompanied by a statement that the delay was unintentional, but provides that "[t]he Commissioner may require additional information where there is a question whether the delay was unintentional." Where, as here, there is a question whether the initial delay was unintentional, the petitioner must meet the burden of establishing that the delay was unintentional within the meaning of 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b). See In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989); 37

CFR 1.137(b). Here, in view of the inordinate delay (over four years) in resuming prosecution, there is a question whether the entire delay was unintentional. Petitioner should note that the issue is not whether some of the delay was unintentional by any party; rather, the issue is whether the entire delay has been shown to the satisfaction of the Director to be unintentional.

The question under 37 CFR 1.137(b) for period (1) is whether the delay on the part of the party having the right or authority to reply to avoid abandonment (or not reply) was unintentional. Accordingly, any renewed petition must clearly identify the party having the right to reply to avoid abandonment on July 23, 2007. That party, in turn must explain what effort(s) was made to further reply to the outstanding Office action and, further, why no reply was filed. If no effort was made to further reply, then that party must explain why the delay in this application does not result from a deliberate course of action (or inaction). Likewise, as Joseph Page was counsel at the time of abandonment, an explanation why this application became abandoned while it was under their control and what efforts attorney Page made to reply. Copies of any correspondence relating to the filing, or to not filing a further reply to the outstanding Office action are required from responsible person(s) and whoever else was involved with this application at the time of abandonment. Statements are required from any and all persons having firsthand knowledge of the circumstances surrounding the lack of a reply to the outstanding Office action.

As the courts have made clear, it is pointless for the USPTO to revive a long abandoned application without an adequate showing that the delay did not result from a deliberate course of action. See Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005); Lumenyte Int'l Corp. v. Cable Lite Corp., Nos. 96-1011, 96-1077, 1996 U.S. App. LEXIS 16400, 1996 WL 383927 (Fed. Cir. July 9, 1996) (unpublished) (patents held unenforceable due to a finding of inequitable conduct in submitting an inappropriate statement that the abandonment was unintentional).

As to Period (2):

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. *See* Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53160 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 87 (October 21, 1997), which clearly stated that any protracted delay (here, over 4 years) could trigger, as here, a request for additional information. As the courts have since made clear, a protracted delay in seeking revival, as here, requires a petitioner's detailed explanation seeking to excuse the delay as opposed to USPTO acceptance of a general allegation of unintentional delay. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633, at 1637-8 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005) at *21-*23. Statements are required from any and all persons having firsthand knowledge of the circumstances surrounding the protracted delay, after the abandonment date, in seeking revival.

As noted in MPEP 711.03(c)(II), subsection D, in instances in which such petition was not filed within 1 year of the date of abandonment of the application, applicants should include:

> (A) the date that the applicant first became aware of the abandonment of the application; and
> (B) a showing as to how the delay in discovering the abandoned status of the application occurred despite the exercise of due care or diligence on the part of the applicant.

In either instance, 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. *See also* New York University v. Autodesk, 2007 U.S. DIST LEXIS, U.S.District LEXIS 50832, *10 -*12 (S.D.N.Y. 2007)(protracted delay in seeking revival undercuts assertion of unintentional delay).

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
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

06 AUG 2010

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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AVERY DENNISON CORPORATION
Patent Group
Law Department - 3 South
P.O. BOX 7090
PASADENA CA 91109-7090

In re Application of:
UTZ, Martin
Patent No.: 7459193
Application No.: 11/298,144
Filing Date: December 09, 2005
Attorney Docket No.: 3689-US
For: LABEL SHEET

DECISION ON PETITION
(37 CFR 1.182)

This decision is issued in response to the "Petition To Correct U.S. Patent And Trademark Office Records Regarding The Submission Of Certified Copies Of Priority Documents Under 37 CFR 1.55 And To Correct U.S. Patent And Trademark Office Records Regarding The Filing Status Of A National Stage Patent Under M.P.E.P. 1002.02(p) and 37 CFR 1.182" filed December 22, 2009. Applicant has paid the applicable petition fee.

BACKGROUND

On December 09, 2005, applicant initiated the present U.S. application by filing a "Utility Patent Application Transmittal" (Form PTO/SB/05), accompanied by, among other materials, a description, claims, drawing, abstract, fee payment, and an unexecuted declaration. The first line of the description stated that the application "claims priority to PCT Patent Application No. PCT/EP2004/006324 entitled "A Label Sheet," filed June 11, 2004, which claims priority to German Patent Application No. DE 103 26 298.9, filed on June 11, 2003."

The application was processed as a U.S. application filed under 35 U.S.C. 111(a).

On December 02, 2008, the application was issued as United States Patent Number US 7,459,193. Based on the claims of "foreign priority benefits under 35 U.S.C. 119(a)-(d) or (f), or 365(b)" listed on the declaration filed by applicant on January 14, 2008, the published patent lists foreign priority claims directed to international application PCT/EP2004/006324 and to German application DE10326298.9.

On December 22, 2009, applicant filed the petition considered herein. The petition requests that USPTO records be corrected to identify the present application as the U.S. national stage of PCT/EP2004/006324 filed under 35 U.S.C. 371. The petition also seeks to confirm entry in the present application file of certified copies of the priority applications, international application PCT/EP2004/006324 and German application DE10326298.9.

DISCUSSION

Any intended filing of an international application as a national stage application must clearly and unambiguously be identified as such and must satisfy all of the conditions set forth in 35 U.S.C. 371(c). See 37 CFR 1.495(g):

> The documents and fees submitted ... must be clearly identified as a submission to enter the national stage under 35 U.S.C. 371, otherwise the submission will be considered as being made under 35 U.S.C. 111.

In addition, section 1893.03(a) of the MPEP states the following:

> If there are any conflicting instructions as to whether the filing is under 35 U.S.C. 111(a) or 35 U.S.C. 371, the application will be accepted as filed under 35 U.S.C. 111(a). A conflicting instruction will be present, for example, where applicant includes in the initial submission under 35 U.S.C. 371, a "Utility Patent Application Transmittal" (Form PTO/SB/05) or includes a benefit claim under 35 U.S.C. 120 to the international application.

None of the materials filed by applicant to initiate the present application on December 09, 2005 "clearly identified" the materials as a submission to enter the national stage under 35 U.S.C. 371. Moreover, as noted above, the materials filed by applicant to initiate the present application included a "Utility Patent Application Transmittal" (Form PTO/SB/05) which, as expressly indicated in the MPEP, is not consistent with the intent to file a national stage application under 35 U.S.C. 371. Finally, the first line of the description filed on December 09, 2005 states that the present application "claims priority" to international application PCT/EP2004/006324, an assertion that is inconsistent with the intent to file a national stage application. See MPEP section 1893.03(c)(III): "a national stage application submitted under 35 U.S.C. 371 may not claim benefit of the filing date of the international application of which it is the national stage since its filing date is the international filing date of the international application."

In view of the above, the present application was properly treated by the USPTO as a filing under 35 U.S.C. 111(a), not a national stage filing under 35 U.S.C. 371.

A grantable petition to convert an application from an application filed under 35 U.S.C. 111(a) to a national stage application filed under 35 U.S.C. 371 must include a showing of sufficient cause to justify such conversion (i.e., the loss of patent rights, the lack of an alternative remedy). The present petition does not include such a showing, and the application has already been issued as a patent.

Because the present application was properly treated by the USPTO as a filing under 35 U.S.C. 111(a) and applicant has failed to demonstrate sufficient cause which would justify a conversion, the present petition to have USPTO records corrected to identify the present application as a national stage filing under 35 U.S.C 371 is appropriately dismissed.

With respect to the certified copies of the foreign priority applications included with the present submission, it is noted that, because the present application is not a national stage application filed under 35 U.S.C. 371, applicant was required to file certified copies of the foreign priority applications before the patent was granted. See 37 CFR 1.55(a)(2): "the certified copy of the foreign application ... must, in any event, be filed before the patent is granted." The certified copies of the foreign priority applications included with the present petition were submitted well after the present patent was issued and therefore may not be accepted in satisfaction of the requirements of 35 U.S.C. 119(b) and 37 CFR 1.55.

It is noted that the two foreign priority claims made by applicant in the present application are also defective under 35 U.S.C. 119 and 365 in that both prior-filed applications (PCT/EP2004/006324, filed June 11, 2004, and German application DE10326298.9, filed June 11, 2003) were filed more than one year prior to the December 09, 2005 filing date of the present application.

CONCLUSION

The petition to correct USPTO records to identify the present application as the U.S. national stage of PCT/EP2004/006324 filed under 35 U.S.C. 371 is **DISMISSED** without prejudice. The present application is properly considered as a filing under 35 U.S.C. 111(a) and 37 CFR 1.53(b).

The submission of certified copies of foreign priority applications PCT/EP2004/006324 and German application DE10326298.9 on December 22, 2009, well after the present patent was issued, is untimely under 37 CFR 1.55.

Please direct further correspondence with respect to this petition to Mail Stop PCT, Commissioner for Patents, 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.

Richard M. Ross
Attorney Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

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	11298169
Filing Date	07-Dec-2005
First Named Inventor	Michael Maziarz
Art Unit	1746
Examiner Name	JEFFRY AFTERGUT
Attorney Docket Number	P-6272/RUSS 200031US01
Title	Football and method of manufacturing same

◉ Please withdraw me as attorney or agent for the above identified patent application and the practitioners of record associated with Customer Number: 027885

The reason(s) for this request are those described in 37 CFR:

10.40(c)(5)

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	Russell Brands, LLC
Address	775 Lee Street
City	Alexander City
State	AL
Postal Code	35010
Country	US

I am authorized to sign on behalf of myself and all withdrawing practitioners.	
Signature	/ Richard M. Klein /
Name	Richard M. Klein
Registration Number	33000

UNITED STATES 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 : February 28, 2012

In re Application of :

Michael Maziarz

Application No : 11298169

Filed : 07-Dec-2005

Attorney Docket No : P-6272/RUSS 200031US01

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 February 28, 2012

The request is **APPROVED.**

The request was signed by Richard M. Klein (registration no. 33000) on behalf of all attorneys/agents associated with Customer Number 027885 . All attorneys/agents associated with Cusotmer Number 027885 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	Russell Brands, LLC
Name2	
Address 1	775 Lee Street
Address 2	
City	Alexander City
State	AL
Postal Code	35010
Country	US

As a reminder, requester is required to inform the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71 of the electronically processed petition.

Telephone inquiries concerning this decision should be directed to the Patent Electronic Business Center (EBC) at 866-217-9197.

Office of Petitions

Doc Code: PET.PTA.RCAL
Document Description: Request for Recalculation in view of Wyeth

PTO/SB/131 (02-10)
Approved for use through 07/31/2010. OMB 0651-0020
U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH**

Attorney Docket Number: P05090US1A	
Application Number: 11/298,222	Filing Date (or 371(b) or (f) Date): 12-10-2005
Patent Number: 7665994	Issue Date: 02-23-2010
First Named Inventor: Al Speyer	
Title: DEVICE AND METHOD FOR DEMONSTRATING STAGGER	

PATENTEE HEREBY REQUESTS RECALCULATION OF THE PATENT TERM ADJUSTMENT (PTA) UNDER 35 USC 154(b) INDICATED ON THE ABOVE-IDENTIFIED PATENT. THE PATENTEE'S SOLE BASIS FOR REQUESTING THE RECALCULATION IS THE USPTO'S PRE-*WYETH* INTERPRETATION OF 35 U.S.C. 154(b)(2)(A).

Note: This form is only for requesting a recalculation of PTA for patents issued before March 2, 2010, if the sole basis for requesting the recalculation is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A). See Instruction Sheet on page 2 for more information.

Patentees are reminded that to preserve the right to review in the United States District Court for the District of Columbia of the USPTO's patent term adjustment determination, a patentee must ensure that he or she also takes the steps required under 35 U.S.C. 154(b)(3) and (b)(4) and 37 CFR 1.705 in a timely manner.

**Wyeth v. Kappos*, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).

Signature /Matthew Jupina/	Date 08-12-2010
Name (Print/Typed) Matthew Jupina	Registration Number 64,393

Note: *Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required in accordance with 37 CFR 1.33 and 11.18. Please see 37 CFR 1.4(d) for the form of the signature. If necessary, submit multiple forms for more than one signature, see below**.

☐ *Total of _____ forms are submitted.

The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 10 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

PTO/SB/131 (02-10)
Approved for use through 07/31/2010. OMB 0651-0020
U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

Instruction Sheet for:
REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH**

(Not to be Submitted to the USPTO)

This form is only for requesting a recalculation of PTA for patents issued before March 2, 2010, if the sole basis for requesting the recalculation is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A).

This form must be filed within 180 days of the day the patent was granted, with the following exception:

> Patentees who received a decision from the USPTO under the USPTO's pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A) may file a request for reconsideration of that decision if such a request for reconsideration is filed within **two months** of the date of the decision (37 CFR 1.181(f)). If the patentee's sole basis for requesting reconsideration of the decision is the USPTO's pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A), the request for reconsideration need only state that reconsideration is being requested in view of Wyeth (this form may be used for this purpose if it is filed within **two months** of the date of the decision from the USPTO).

Do not use this form if the application has been allowed, but not yet issued as a patent.

1. **For patents issued before March 2, 2010:** A request for reconsideration under 37 CFR 1.705(d) and the fee set forth in 37 CFR 1.18(e) are not required, provided that the patentee's sole basis for requesting recalculation of the PTA in the patent is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A) and this form is filed within 180 days of the day the patent was granted.

2. **For patents issued on or after March 2, 2010 (do not use this form):** Patentees seeking a revised PTA in a patent issued on or after March 2, 2010, must file a request for reconsideration under 37 CFR 1.705(d) that complies with the requirements of 37 CFR 1.705(b)(1) and (b)(2) within two months of the day the patent issued.

For more information, see "Notice Concerning Calculation of the Patent Term Adjustment With Respect to the Overlapping Delay Provision of 35 U.S.C. 154(b)(2)(A)" available on the USPTO Web site at http://www.uspto.gov/patents/law/notices/2010.jsp.

**Wyeth v. Kappos*, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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United States Patent and Trademark Office
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BRIDGESTONE AMERICAS, INC.
1200 FIRESTONE PARKWAY
AKRON, OH 44317

Mail Date: 08/17/2010

Applicant	: Al Speyer	: DECISION ON REQUEST FOR
Patent Number	: 7665994	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/298,222	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/10/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1086** 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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McDermott Will & Emery LLP
600 13th Street, NW
Washington DC 20005-3096

MAILED
NOV 08 2011
OFFICE OF PETITIONS

In re Application of	:	DECISION ON PETITION
Parekh et al.	:	UNDER 37 CFR 1.78(a)(6)
Application No. 11/298,279	:	
Filed: December 9, 2005	:	
Atty Docket No. 087124-0176	:	

This is a decision on the PETITION TO ACCEPT AN UNINTENTIONALLY DELAYED DOMESTIC BENEFIT CLAIM UNDER 37 C.F.R. §1.78(a)(6), filed October 28, 2011, to accept the unintentionally delayed claim of priority to provisional application No. 60/564,467.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority 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 37 CFR § 1.78(a)(6) 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 instant application was filed after November 29, 2000. A review of the application as filed reveals that the claim for priority set forth on petition was not submitted on filing in the first sentence of the specification or in an application data sheet. The four and sixteen-month periods specified in 37 CFR §§ 1.78(a)(5)(ii) have expired. Thus, the instant petition is appropriate. The petition includes the required statement of unintentional delay and the required surcharge.

On petition, a reference to the prior-filed provisional applications has been included in an amendment, as required by 37 CFR 1.78(a)(5)(iii). With respect to the applications so incorporated, the incorporation by reference statement included in the amendment was present on filing of the application.

With respect to 35 U.S.C. 119(e) and 37 CFR 1.78(a)(6), this pending nonprovisional application was filed on December 9, 2005. The filing date of provisional application no. 60/564,467 for which priority is claimed is, April 21, 2004, which is within twelve months of intermediate application No. 11/111,050, filed April 20, 2005. The instant petition is a continuation-in-part of application No. 11/111,050. Application No. 11/111,050 is now patented; however, as filed application No. 11/111,050 claimed the benefit of provisional application No. 60/564,467. Thus, the claim for benefit of priority under 35 U.S.C. § 119(e) of provisional application no. 60/564,467 was made in intermediate application no. 11/111,050 during the pendency of the application (before the application issued).

A review of the application history reveals that the provisional application filing fee was paid in all prior-filed provisional applications.

In view thereof, all of the above requirements have been satisfied. The late claim for benefit of priority to the prior-filed application under 35 U.S.C. § 119(e) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed 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 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 application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed provisional application, accompanies this decision on petition.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3219. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being referred to Technology Center Art Unit 2614 for consideration by the examiner of the claim for benefit of priority under 35 U.S.C. §119(e) to the above-noted, prior-filed provisional application.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

ATTACHMENT : Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/298,279	12/09/2005	2614	3830	087124-0176	42	11

CONFIRMATION NO. 6472

CORRECTED FILING RECEIPT

98000
McDermott Will & Emery LLP
600 13th Street, NW
Washington, DC 20005-3096

Date Mailed: 11/08/2011

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)

Nileshkumar J. Parekh, San Diego, CA;
Ravinder Paul(Rob) Chandhok, Poway, CA;
Ranganathan Krishnan, San Diego, CA;
An Mei Chen, San Diego, CA;

Power of Attorney: The patent practitioners associated with Customer Number 98000

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/670,946 04/12/2005
and claims benefit of 60/634,977 12/09/2004
and is a CIP of 11/111,050 04/20/2005 PAT 7,912,457
which claims benefit of 60/564,467 04/21/2004

Foreign Applications (You may be eligible to benefit from the **Patent Prosecution Highway** program at the USPTO. Please see http://www.uspto.gov for more information.)

If Required, Foreign Filing License Granted: 01/20/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/298,279**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

METHODS AND APPARATUS FOR CREATION AND TRANSPORT OF MULTIMEDIA CONTENT FLOWS TO A DISTRIBUTION NETWORK

Preliminary Class

370

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where

the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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BOSE MCKINNEY & EVANS LLP
111 Monument Circle
Suite 2700
INDIANAPOLIS IN 46204

MAILED

AUG 3 1 2010

OFFICE OF PETITIONS

In re Application of	:	
Hans List	:	
Application No. 11/298388	:	DECISION
Filing or 371(c) Date: 12/09/2005	:	ON PETITION
Attorney Docket Number: 9134-0226	:	

This is a decision on the renewed Petition to Revive Patent Application Unintentionally Abandoned Under 37 CFR 1.137(b), filed April 14, 2010, to revive the above-identified application.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance and Issue Fee Due, mailed December 14, 2009. The Notice set a non-extendable three (3) month period for reply. No reply having been received, the application became abandoned March 15, 2010. A Notice of Abandonment was mailed April 12, 2010.

Applicant files the present petition and the issue due. 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 and the publication fee; (2) the petition fee; and (3) a proper statement of unintentional delay.

This application is being referred to the Office of Data Management for processing into a patent.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

/DW/

Derek Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Michael P. Morris
Boehringer Ingelheim USA Corporation
900 Ridgebury Rd.
PO Box 368
Ridgefield CT 06877-0368

MAILED
OCT 04 2010
OFFICE OF PETITIONS

In re Patent No. 7,504,378	:	
Llinas-Brunet et al.	:	DECISION UPON REMAND AND
Issue Date: March 17, 2009	:	RECONSIDERATION OF
Application No. 11/298,443	:	PATENT TERM ADJUSTMENT
Filed: December 10, 2005	:	AND NOTICE OF INTENT
Attorney Docket No. 13-0117-1C1	:	TO ISSUE CERTIFICATE OF
Title: Macrocyclic Peptides Active Against The Hepatitis C Virus	:	CORRECTION

This is a decision following remand from the District Court for the District of Columbia regarding the patent term adjustment indicated on the above-identified patent. The Court remanded this matter to the U.S. Patent and Trademark Office for recalculation of the patent term adjustment in accordance with the decision in Wyeth & Elan Pharma Int'l Ltd. v. Kappos, 591 F.3d 1364 (Fed. Cir. 2010).

The patent term adjustment indicated on the above-identified patent has been recalculated as directed by the Court. The term of the above-identified patent is extended or adjusted by four hundred and twenty-nine (429) 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 four hundred and thirty-two (429) 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 : 7,504,378

DATED : **March 17, 2009** **DRAFT**

INVENTOR(S) : Llinas-Brunet 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 332 days

Delete the phrase "by 332 " and insert – by 429 days--

Day : Friday
Date: 10/1/2010

PALM INTRANET

Time: 10:50:43

PTA Calculations for Application: 11/298443			
Application Filing Date:	12/10/2005	PTO Delay (PTO):	332
Issue Date of Patent:	03/17/2009	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	0
Post-Issue Petitions:	0	Total PTA (days):	429
PTO Delay Adjustment:	97		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
55	10/01/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	97		
49.5	02/25/2009	PTA 36 MONTHS			
49	03/17/2009	PATENT ISSUE DATE USED IN PTA CALCULATION			
48	02/16/2009	EXPORT TO FINAL DATA CAPTURE			
47	02/13/2009	DISPATCH TO FDC			
46	02/06/2009	MAIL-PETITION DECISION - DISMISSED			
45	02/06/2009	PETITION DECISION - DISMISSED			
44	01/06/2009	PETITION ENTERED			
43	01/07/2009	APPLICATION IS CONSIDERED READY FOR ISSUE			
42	01/06/2009	ISSUE FEE PAYMENT VERIFIED			
41	01/06/2009	ISSUE FEE PAYMENT RECEIVED			
40	12/24/2008	FINISHED INITIAL DATA CAPTURE			
39	10/13/2008	EXPORT TO INITIAL DATA CAPTURE			
37	10/07/2008	MAIL NOTICE OF ALLOWANCE			
36	10/03/2008	DOCUMENT VERIFICATION			
35	10/03/2008	ISSUE REVISION COMPLETED			
34	10/03/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
33	10/03/2008	CASE DOCKETED TO EXAMINER IN GAU			
32	10/01/2008	EXAMINER'S AMENDMENT COMMUNICATION			
31	10/01/2008	NOTICE OF ALLOWABILITY			
30	07/16/2008	DATE FORWARDED TO EXAMINER			
29	06/25/2008	RESPONSE AFTER NON-FINAL ACTION			
28	03/25/2008	MAIL NON-FINAL REJECTION			
27	03/20/2008	NON-FINAL REJECTION			

21	04/07/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
18	02/14/2008	DATE FORWARDED TO EXAMINER			
17	02/08/2008	RESPONSE TO ELECTION / RESTRICTION FILED			
16	01/08/2008	MAIL RESTRICTION REQUIREMENT	332		-1
15	01/07/2008	REQUIREMENT FOR RESTRICTION / ELECTION			
14	12/27/2006	CORRESPONDENCE ADDRESS CHANGE			
13	12/05/2006	CORRESPONDENCE ADDRESS CHANGE			
12	04/07/2006	REFERENCE CAPTURE ON IDS			
11.7	04/07/2006	ELECTRONIC INFORMATION DISCLOSURE STATEMENT			
11	04/07/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
9	02/04/2006	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
8	02/04/2006	CASE DOCKETED TO EXAMINER IN GAU			
7	01/19/2006	APPLICATION DISPATCHED FROM OIPE			
6	01/19/2006	APPLICATION IS NOW COMPLETE			
5	01/13/2006	CLEARED BY L&R (LARS)			
4	12/29/2005	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			
3	12/29/2005	CASE CLASSIFIED BY OIPE			
2	12/22/2005	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	12/10/2005	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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Inventor Information for 11/135533

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KAPADIA, SURESH R.	DANBURY	CONNECTICUT
LORENZ, JON CHARLES	NEW MILFORD	CONNECTICUT
SAHA, ANJAN	HAMDEN	CONNECTICUT
SENANAYAKE, CHRIS HUGH	BROOKFIELD	CONNECTICUT
WEI, XUDONG	RIDGEFIELD	CONNECTICUT

Appln Info | Contents | Petition Info | Atty/Agent Info | Continuity/Reexam | Foreign Data | Inventors | Address | Fees | Post Info | Pre Grant Pub

Search Another: Application # [ ] Search **or Patent#** [ ] Search
PCT / [ ] / [ ] Search **or PG PUBS #** [ ] Search
Attorney Docket # [ ] Search
Bar Code # [ ] Search

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Patent No. : 7641945
Application No.: 11/298628
Inventor(s) : GOTO et al.
Issued : January 5, 2010
Title : ELECTRICAL-DISCHARGE SURFACE-TREATMENT METHOD
Docket No. : Q91944

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this matter, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1. 17(i) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: 571-273-0025
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Tasneem Siddiqui
For Mary Diggs (Supervisor)
Decisions & Certificates of Correction Branch
(703) **756-1593** or (703) 756-1814
Date: 10/26/2010

Address: Nataliya Dvorson
SUGHRUE MION, PLLC
2100 Pennsylvania Avenue, N.W.
Washington, D.C. 20037

ts/md

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SUGHRUE MION PLLC
2100 PENNSYLVANIA AVENUE NW
SUITE 800
WASHINGTON DC 20037

MAILED

DEC 17 2010

OFFICE OF PETITIONS

In re Patent No. 7,641,945 :
Issue Date: January 5, 2010 :
Application No. 11/298,628 : DECISION ON PETITION
Filed: December 12, 2005 :
Attorney Docket No. Q91944 :

This is a decision on the petition under 37 CFR 1.323, filed November 16, 2010.

The petition is **GRANTED**.

An application may issue in the name of an assignee rather than the applicant if requested prior to issuance of a patent.[1] However, in the event the request is not made prior to issuance, a Certificate of Correction under 37 CFR 1.323 may be requested. A request for a Certificate of Correction under 37 CFR 1.323 to correct the assignee's name will not be granted unless a petition under 37 CFR 3.81(b) is granted. Such request under 37 CFR 3.81(b) should include:

(A) the processing fee required by 37 CFR 1.17(i);

(B) a request for issuance of the application in the name of the assignee, or a request that a patent be corrected to state the name of the assignee;

[1] See 37 CFR 3.81.

(C) a statement that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent; and

(D) a request for a certificate of correction under 37 CFR 1.323 accompanied by the fee set forth in 37 CFR 1.20(a).[2]

Receipt of the $130 processing fee and $100 fee for the Certificate of Correction is acknowledged.

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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CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON, DC 20044-4300

Mail Date: 10/07/2010

Applicant	: Richard Pelletier	: DECISION ON REQUEST FOR
Patent Number	: 7638719	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/298,649	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/12/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **580** 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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In re Patent No. 7240838
Issue Date: July 10,2007
Application No. 11298660
Filed: December 12,2005
Attorney Docket No. 43706-US

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed January 24,2012 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of January 24,2012 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
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)
7240838	2007-07-10	11298660	2005-12-12	

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.

The Assignee of record of the entire interest			
Under 37 CFR 3.71 an assignee becomes of record by filing a statement in compliance with 37 CFR 3.73(b). Signature requirements are set forth in 37 CFR 1.4(d), and the undersigned certifies that he / she is empowered to act on behalf of the assignee of the entire interest			
Signature	/Karl Gemperli/	Date (YYYY-MM-DD)	2012-01-23
Name	Karl Gemperli-President/Elecsys International Corp		
Enter Reel and Frame Number		Remove	
Reel Number	027388	Frame Number	0334
Click ADD for additional Reel Number and Frame Number		Add	

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/298,779	12/09/2005	Thomas Redel	P05,0268	6767

7590 11/17/2010

SCHIFF HARDIN LLP
Patent Department
6600 Sears Tower
233 South Wacker Drive
Chicago, IL 60606

EXAMINER	
COOK, CHRISTOPHER L	

ART UNIT	PAPER NUMBER
3737	

MAIL DATE	DELIVERY MODE
11/17/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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SCHIFF HARDIN LLP
Patent Department
6600 Sears Tower
233 South Wacker Drive
Chicago IL 60606

In re Application of:
REDEL, THOMAS et al
Serial No. 11/298,779
Filed: Dec. 9, 2005
Docket: P05,0268
Title: METHOD AND APPARATUS FOR ECG-SYNCHRONIZED OPTICALLY-BASED IMAGE ACQUISITION AND TRANSFORMATION

DECISION ON PETITION
UNDER 37 CFR § 1.181

This is a decision on the petition filed November 11, 2010 under 37 CFR 1.181 requesting supervisory review of the advisory action mailed September 29, 2010. In the petition, petitioner requests entry of the amendment after final filed on September 23, 2010 under 37 CFR 1.116. The petition is being considered pursuant to 37 CFR 1.181, and no fee is required.

The petition is granted.

The examiner was requested to enter the amendment after final filed on September 23, 2010 for appeal purposes because the amendment neither raised new issues nor required new searches. In the present amendment under 37 CFR § 116, the applicant merely removed the objectionable subject matter to overcome the rejection of claims under 35 USC § 112. The amendment clearly reduces appealable issue as acknowledged in the Advisory Action of September 29, 2010. Therefore, there is no reason not to enter the amendment after final for appeal purposes. All claims remain rejected under 35 USC 103 (a).

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

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Commissioner for Patents
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Alexandria, VA 22313-1450
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FINNEGAN HENDERSON FARABOW GARRETT & DUNNER, LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

MAILED

MAR 14 2011

OFFICE OF PETITIONS

In re Application of :
Kazushige OHNO, *et al.* :
Application No. 11/298,833 : DECISION GRANTING PETITION
Filed: December 12, 2005 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **09971.0003** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 11, 2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on February 25, 2011 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 1784 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 2/3/2011

Paper No.: —

TO SPE OF : ART UNIT 2162

Cof mailroom date 1/25/2011

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/298930 Patent No.: 7730082 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Virginia Tolbert
Certificates of Correction Branch
571-272-0460

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: The request has been approved.

/John Breene/ SPE AU 2162

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : April 26, 2011

TO SPE OF : ART UNIT 1631

SUBJECT : Request for Certificate of Correction for Appl. No 11299002.: 7818130B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)

Should the change(s) Be made?

RoChaun Johnson
Certificates of Correction Branch
571 272-0470

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

[signature] 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
www.uspto.gov

Paper No.

SMARTDRIVE SYSTEMS, INC.
P.O. BOX 757
LA JOLLA CA 92038

MAILED

SEP 29 2011

OFFICE OF PETITIONS

In re Application of	:	
Plante	:	
Application No. 11/299,028	:	DECISION ON PETITION
Filed: December 9, 2005	:	PURSUANT TO
Attorney Docket No. 266.3	:	37 C.F.R. § 1.137(B)
Title: VEHICLE EVENT	:	
RECORDER SYSTEMS	:	

This is a decision on the petition pursuant to 37 C.F.R. § 1.137(b), filed September 20, 2011, to revive the above-identified application.

This petition pursuant to 37 C.F.R. § 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to a non-final Office action, mailed April 24, 2008, which set a shortened statutory period for reply of three months. No response was received, and no extensions of time under the provisions of 37 C.F.R. § 1.136(a) were requested. Accordingly, the above-identified application became abandoned on July 25, 2008. A notice of abandonment was mailed on January 12, 2009.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in 37 C.F.R. § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The

Commissioner may require additional information where there is a question whether the delay was unintentional, and;

(4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

With this petition, Petitioner has submitted an amendment, the petition fee, and the proper statement of unintentional delay. As such, the first three requirements of Rule 1.137(b) have been met. The fourth requirement of Rule 1.137(b) is not applicable, as a terminal disclaimer is not required.[1]

The record (including the petition filed on September 20, 2011) does not necessitate a finding that the delay between July 25, 2008 (the date of abandonment) and September 20, 2011 (the date of the filing of grantable petition) was not unintentional.

Rather, the Patent and Trademark Office is relying in this matter on the duty of candor and good faith of Petitioners (Smartdrive Systems, Inc. and James Plante) and their Counsel (Joseph Page, Reg. No. 35,311) when accepting Petitioners' representation that the delay in filing the response was unintentional.[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 September 20, 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.**

---

1 See Rule 1.137(d).

2 See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 C.F.R. § 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 C.F.R. § 1.137(b) to the Patent and Trademark Office).

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
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 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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Paper No.

MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

MAILED

OCT 19 2010

OFFICE OF PETITIONS

In re Application of :
Landis Rogers :
Application No. 11/299165 : ON APPLICATION FOR
Filed: 12/09/2005 : PATENT TERM ADJUSTMENT
Atty Docket No. :
16279US02 :

This is in response to the "APPLICATION FOR RECONSIDERATION OF THE DETERMINATION OF PATENT TERM ADJUSTMENT UNDER 35 U.S.C. 154(b) ACCOMPANYING THE NOTICE OF ALLOWANCE (37 CFR §1.705)," filed on August 4, 2010, which is treated as a petition under 37 CFR 1.705(b). Applicants submit that the patent term adjustment to be indicated on the patent should be increased from 749 days to 1181 days. Applicants request this correction solely on the basis that the patent will issue on November 9, 2010.

The instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

---

1 For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

MAILED
JUL 15 2011
OFFICE OF PETITIONS

In re Patent No. 7,839,454	:	DECISION ON APPLICATION
Landis Rogers	:	FOR RECONSIDERATION OF
Issue Date: 11/23/2010	:	PATENT TERM ADJUSTMENT
Application No. 11/299,165	:	AND NOTICE OF INTENT TO
Filing Date: 12/09/2005	:	ISSUE CERTIFICATE OF
Attorney Docket No.	:	CORRECTION
16279US02	:	

This is a decision on the petition filed on January 24, 2011, 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 one hundred ninety-five (1195) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein.** The term of the above-identified patent is extended or adjusted by **one thousand one hundred sixty-two (1162) days.**

Patentee disputes the period of time excluded from B delay for appellate review. Patentee's argument has been considered, but not found persuasive.

37 CFR 1.703(b) indicates that the period of adjustment under 37 CFR 1.702(b) ("over three year period") is the number of days, if any, in the period beginning on the day after the date that is three years after the actual filing date of the application and ending on the date a patent was issued. 35 U.S.C. 154(b)(1)(B). In this instance, the "over three year period" is seven hundred fourteen (714) days, beginning on December 10, 2008, the date after the date that is three years after the

filing date of the application and ending on November 23, 2010, the date the patent issued.

However, 37 CFR 1.703(b) also sets forth the limitations on patent term adjustment specified in 35 U.S.C. 154(b)(1)(B)(i) and (ii). Specifically, the period consumed by appellate review, whether successful or not, is excluded from the calculation of B delay. See 35 U.S.C. 154(b)(1)(B)(ii). An appeal to the Board of Patent Appeals and Interferences commences with the filing of a notice of appeal. See 35 U.S.C. 134(a). Generally, an appeal to the Board of Patent Appeals and Interferences ends with either 1) a Board decision, 2) the examiner reopening prosecution and issuing another Office action, or 3) the applicant filing a request to withdraw the appeal and reopen prosecution (e.g. the filing of a request for continued examination). In this instance the period consumed by appellate review is 189 days, beginning on October 28, 2009, the date of filing of the notice of appeal and ending on May 4, 2010, the subsequent date of the mailing of the notice of allowance: Thus, B delay is 525 (714 - 189) days (not 526 days).

Patentee further asserts that the 112 day reduction for applicant delay in connection with the filing of drawings on August 4, 2010, after the mailing of the notice of allowance, is not warranted. Patentee asserts, in essence, that the Office is incorrectly characterizing the paper filed on August 4, 2010 as "an alleged amendment under § 1.312 or other paper delaying prosecution."

Patentee's argument has been considered, but is not persuasive.

MPEP 2701 states, in pertinent part:

> 37 CFR 1.704(c)(10) establishes submission of an amendment under 37 CFR 1.312 or other paper after a notice of allowance has been given or mailed as a circumstance that constitutes a failure of an applicant to engage in reasonable efforts to conclude processing or examination of an application. The submission of amendments (or other papers) after an application is allowed may cause substantial

interference with the patent issue process. Certain papers filed after allowance are not considered to be a failure to engage in reasonable efforts to conclude processing or examination of an application. See Clarification of 37 CFR 1.704(c)(10) - Reduction of Patent Term Adjustment for Certain Types of Papers Filed After a Notice of Allowance has been Mailed, 1247 Off. Gaz. Pat. Office 111 (June 26, 2001). The submission of the following papers after a "Notice of Allowance" is **not** considered a failure to engage in reasonable efforts to conclude processing or examination of an application: (1) Fee(s) Transmittal (PTOL-85B); (2) Power of Attorney; (3) Power to Inspect; (4) Change of Address; (5) Change of Status (small/not small entity status); (6) a response to the examiner's reasons for allowance or a request to correct an error or omission in the "Notice of Allowance" or "Notice of Allowability;" and (7) letters related to government interests (e.g., those between NASA and the Office). Papers that **will be** considered a failure to engage in reasonable efforts to conclude processing or examination of an application include: (1) a request for a refund; (2) a status letter; (3) amendments under 37 CFR 1.312; (4) late priority claims; (5) a certified copy of a priority document; (6) drawings; (7) letters related to biologic deposits; and (8) oaths or declarations. 37 CFR 1.704(c)(10) provides that in such a case the period of adjustment set forth in 37 CFR 1.703 shall be reduced by the lesser of: (1) the number of days, if any, beginning on the date the amendment under 37 CFR 1.312 was filed and ending on the mailing date of the Office action or notice in response to the amendment under 37 CFR 1.312 or such other paper; or (2) four months. The phrase "lesser of ...or [f]our months" is to provide a four-month cap for a reduction under 37 CFR 1.704(c)(10) if the Office takes longer than four months to issue an Office action or notice in response to the amendment under 37 CFR 1.312 or other paper.

(emphasis in original)

A review of the record reveals that the papers filed on August 4, 2010, after the mailing of the notice of allowance, included replacement drawings. As noted above, drawings filed after the mailing of the notice of allowance are among the types of papers considered to be a failure to engage in reasonable efforts to conclude processing or examination pursuant to 37 CFR 1.704(c)(10). On August 4, 2010, the drawings were filed, after the mailing of the notice of allowance. On November 23, 2010, 112 days after the date the drawings were filed, the patent issued. Accordingly, the reduction of 112 days for applicant delay is warranted and will not be removed.

Accordingly, the patent term adjustment is 1162 days (749 days of A delay + 525 days of B delay - 0 days of overlap - 112 days of applicant delay).

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentee is given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

It is noted that the Office issued a Notice of proposed rulemaking entitled *Revision of Patent Term Extension and Adjustment Provisions Relating to Appellate Review and Information Disclosure Statements*, 76 FR 18990 (April 6, 2011). To the extent that the final rule on *Revision of Patent Term Extension and Adjustment Provisions Relating to Appellate Review* revises the interpretation of appellate review applied in this decision, Patentee is given **one (1) month or thirty (30) days**, whichever is longer, from the date of the final rule to file a request for reconsideration. No extensions of time will be granted under § 1.136.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

This matter is being referred to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand one hundred sixty-two (1162) 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 : 7,839,454 B2

DATED : **Nov. 23, 2010** **DRAFT**

INVENTOR(S) : Rogers

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 1163 days.

Delete the phrase "by 1163 days" and insert – by 1162 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: 04/28/11

Patent No. : 7,692,065 B2
Ser. No. : 11/299,286
Inventor(s) : **Harper , et al.**
Issued : **April 6, 2010**
Title : Stress-regulated genes of plants, transgenic plants containing same, and methods of use
Docket No. : **TSRI 783.3 C1**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this mater, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.17(i) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS

Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-0025
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Lamonte M. Newsome
For Mary Diggs, Supervisor
Decisions & Certificates
Of Correction Branch
(571) 272-3421 or (703) 305-8309

THE SCRIPPS RESEARCH INSTITUTE
OFFICE OF PATENT COUNSEL, TPC-8
10550 NORTH TORREY PINES ROAD
LA JOLLA CA 92037

LMN

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Ronald J. Baron, Esq.
HOFFMANN & BARON, LLP
6900 Jericho Turnpike, Suite 200
Syosset NY 11791

MAILED
OCT 17 2011
OFFICE OF PETITIONS

In re Application of :
Hall et al. :
Application No. 11/299301 : ON PETITION
Filing or 371(c) Date: 12/09/2005 :
Attorney Docket Number: 05408/1202219-US1 :

This is a decision on the petition to revive the above-identified application under the unintentional provisions of 37 CFR 1.137(b), filed September 23, 2011.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of July 7, 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 complete and proper reply having been filed, the date of abandonment of this application is October 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 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 1761 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

/DLW/

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Spyros J. Lazaris
Sidley Austin Brown & Wood LLP
Suite 4000
555 West Fifth Street
Los Angeles CA 90013

MAILED

OCT 03 2011

OFFICE OF PETITIONS

In re Application of :
Daniel John Bryce, et al. :
Application No. 11/299,525 : DECISION ON PETITION
Filed: December 12, 2005 :
Attorney Docket No. 17827-81001 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 31, 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 application became abandoned for failure to timely reply to a non-final Office action, mailed March 31, 2009, which set a shortened statutory period for reply of three (3) months. Accordingly, the application became abandoned on July 1, 2009. A Notice of Abandonment was mailed on October 9, 2009. On August 31, 2011, the present petition was filed.

The petition is not signed by a registered practitioner of record. However, in accordance with 37 CFR 1.34(a), the signature of Mark J. Danlelson 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. However, if Mr. Danlelson 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 petitioner, all future correspondence regarding this application file will be directed solely to the address of record.

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 periods (1) and (2).

As to Period (1):

The patent statute at 35 U.S.C. § 41(a)(7) authorizes the Director to revive an "unintentionally abandoned application." The legislative history of Public Law 97-247 reveals that the purpose of 35 U.S.C. § 41(a)(7) is to permit the Office to have more discretion than in 35 U.S.C. §§ 133 or 151 to revive abandoned applications in appropriate circumstances, but places a limit on this discretion, stating that "[u]nder this section a petition accompanied by either a fee of $500 or a fee of $50 **would not be granted where the abandonment** or the failure to pay the fee for issuing the patent **was intentional** as opposed to being unintentional or unavoidable." [emphasis added]. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6-7 (1982), *reprinted in* 1982

U.S.C.C.A.N. 770-71. The revival of an intentionally abandoned application is antithetical to the meaning and intent of the statute and regulation.

35 U.S.C. § 41(a)(7) authorizes the Director to accept a petition "for the revival of an unintentionally abandoned application for a patent." As amended December 1, 1997, 37 CFR 1.137(b)(3) provides that a petition under 37 CFR 1.137(b) must be accompanied by a statement that the delay was unintentional, but provides that "[t]he Director may require additional information where there is a question whether the delay was unintentional." Where, as here, there is a question whether the initial delay was unintentional, the petitioner must meet the burden of establishing that the delay was unintentional within the meaning of 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b). *See* In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989); 37 CFR 1.137(b). Here, in view of the inordinate delay (over two years) in resuming prosecution, there is a question whether the entire delay was unintentional. Petitioner should note that the issue is not whether some of the delay was unintentional by any party; rather, the issue is whether the entire delay has been shown to the satisfaction of the Director to be unintentional.

The question under 37 CFR 1.137(b) for period (1) is whether the delay on the part of the party having the right or authority to reply to avoid abandonment (or not reply) was unintentional. As petitioner was not associated with this case at the time of abandonment, the statement of unintentional delay by Mark J. Danleson--who was not the counsel at record at the time of abandonment, is not persuasive.

Accordingly, any renewed petition must clearly identify the party having the right to reply to avoid abandonment on July 1, 2009. That party, in turn must explain what effort(s) was made to further reply to the outstanding Office action and, further, why no reply was filed. If no effort was made to further reply, then that party must explain why the delay in this application does not result from a deliberate course of action (or inaction). Likewise, as Sidley Austin Brown & Wood LLP were the counsel of record at the time of abandonment, they should explain why this application became abandoned while under their control. Copies of any correspondence relating to the filing, or to not filing a further reply to the outstanding Office action are required from

responsible person(s), and whoever else was involved with this application at the time of abandonment. Further, statements are required from Sidley Austin Brown & Wood LLP and any responsible person(s) having firsthand knowledge of the circumstances surrounding the lack of a reply to the outstanding Office action. As the courts have made clear, it is pointless for the USPTO to revive a long abandoned application without an adequate showing that the delay did not result from a deliberate course of action. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005); Lumenyte Int'l Corp. v. Cable Lite Corp., Nos. 96-1011, 96-1077, 1996 U.S. App. LEXIS 16400, 1996 WL 383927 (Fed. Cir. July 9, 1996) (unpublished) (patents held unenforceable due to a finding of inequitable conduct in submitting an inappropriate statement that the abandonment was unintentional).

As to Period (2):

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. *See* Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53160 (October 10, 1997), 1203

Off. Gaz. Pat. Office 63, 87 (October 21, 1997), which clearly stated that any protracted delay (here, over two years) could trigger, as here, a request for additional information. As the courts have since made clear, a protracted delay in seeking revival, as here, requires a petitioner's detailed explanation seeking to excuse the delay as opposed to USPTO acceptance of a general allegation of unintentional delay. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633, at 1637-8 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005) at *21-*23. Statements are required from any and all responsible person(s) having firsthand knowledge of the circumstances surrounding the protracted delay, after the abandonment date, in seeking revival.

In either instance, 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. *See also* New York University v. Autodesk, 2007 U.S. DIST LEXIS, U.S.District LEXIS 50832, *10 -*12 (S.D.N.Y. 2007)(protracted delay in seeking revival undercuts assertion of unintentional delay).

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]

[1] www.uspto.gov/ebc/efs_help.html (for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: MARK J. DANLELSON
PILLSBURY WINTHROP SHAW PITTMAN, LLP
2475 HANDOVER STREET
PALO ALTO, CA 94304-1114

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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SPYROS J. LAZARIS
SIDLEY AUSTIN BROWN & WOOD LLP
SUITE 4000
555 WEST FIFTH STREET
LOS ANGELES, CA 90013

MAILED

MAR 29 2012

OFFICE OF PETITIONS

In re Application of
Daniel John Bryce, et al.
Application No. 11/299,525
Filed: December 12, 2005
Attorney Docket No.: 17827-81001

ON PETITION

This is a decision in response to the renewed petition, filed March 5, 2012, 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 March 31, 2009. A Notice of Abandonment was mailed on October 9, 2009. On August 31, 2011, a petition under the provisions of 37 CFR 1.137(b) was filed; however, the petition was dismissed in a decision mailed October 3, 2011. On March 5, 2012, the present petition was filed, including an appropriate petition for extension of time.

There is no evidence of record that the person signing the petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature of Mark J. Danielson appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. A courtesy copy of this decision is being mailed to the petitioner; however, any further correspondence will be directed solely to the address of record.

The above-identified application has been abandoned for an extended period of time. The U.S. Patent and Trademark Office is relying of petitioner's duty of candor and good faith and accepting the statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the Patent and Trademark Office). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of amendment; (2) the petition fee of $810; and (3) an adequate statement and explanation of the unintentional delay.

The application is being referred to Technology Center AU 2446 for appropriate action by the Examiner in the normal course of business on the amendment received August 31, 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

cc: MARK J. DANIELSON
PILLSBURY WINTHROP SHAW PITTMAN LLP
2475 HANOVER STREET
PALO ALTO, CA 94304-1114

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SEP 09 2010

OFFICE OF PETITIONS

TYCO HEALTHCARE - EDWARD S. JARMOLOWICZ
15 HAMPSHIRE STREET
MANSFIELD, MA 02048

In re Application of	:	
Ann Meyer	:	
Application No. 11/299,568	:	DECISION ON PETITION
Filed: December 12, 2005	:	
Attorney Docket No.: 1831K / TYCV 1831	:	

This is a decision in response to the petition, filed May 10, 2010, 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 a failure to reply in a timely manner to a non-final Office action mailed September 21, 2009. A Notice of Abandonment was mailed on April 28, 2010. On May 10, 2010, the present petition was filed. Petitioner argues that the abandonment should be withdrawn, since a timely reply was filed on January 26, 2010. Petitioner explains that an Amendment F was filed by facsimile transmission on January 26, 2010. In support petitioner submits a copy of the amendment and the Auto-Reply transmission report showing receipt on January 26, 2010.

A review of the application file confirms receipt of a response to the September 21, 2010, Office action, as it is present among the papers contained in the file. It is noted that the response includes a certificate of transmission dated January 26, 2010, as well as request for a 2-month petition for extension of time. Accordingly, the response is considered timely.

In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment is withdrawn. The requisite fee for the 2-month extension of time is being charged to counsel's deposit account, as authorized on July 30, 2009.

The application is being referred to Technology Center AU 3772 for appropriate action by the Examiner in the normal course of business on the reply received January 26, 2010.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. Inquiries regarding further prosecution of this application should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: ____

DATE : 9/10/09

TO SPE OF : ART UNIT 2852

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/299585 Patent No.: 7631382 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 (C of C)
Randolph Square 9D62-B
Palm Location 7580

Virginia Tolbert
Certificates of Correction Branch
703-756-1591

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: Since the application is now a patent, it is believed the petition to correct inventorship under 37 CFR 1.48(a) is inappropriate. Please see 37 CFR 1.324 for instructions on how to correct inventorship in a patent AR 9/27/10

SPE Art Unit

[redacted]

From: Gray, David
Sent: Thursday, December 09, 2010 7:13 AM
To: Tolbert, Virginia
Subject: COC in 11299585

As we discussed today the COC should be entered correcting the inventorship as it was an Office error that it was not done previously.

David M. Gray
SPE 2852
JEF 8A11

UNITED STATES PATENT AND TRADEMARK OFFICE

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P.O. BOX 3001
BRIARCLIFF MANOR, NY 10510

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AUG 0 4 2010

OFFICE OF PETITIONS

In re Application of :
Magers et al. :
Application No. 11/299,708 : ON PETITION
Filed: December 12, 2005 :
Attorney Docket No. 014578US1 :

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 reply in a timely manner to the non-final Office action mailed, April 22, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on July 23, 2009. A Notice of Abandonment was mailed November 13, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment , (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay. A Notice of Abandonment was mailed May 28, 2010.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to Alicia Kelley at (571) 272-6059.

This application is being referred to Technology Center 3739 for further examination on the merits

Carl Friedman
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

YUNG-SHU YANG
P.O. BOX NO.6-57
JUNGHE, TAIPEI 235 TW TAIWAN

MAILED
DEC 07 2010
OFFICE OF PETITIONS

In re Application of :
Yung-Shu Yang :
Application No. 11/299,735 : ON PETITION
Filed: December 13, 2005 :
Attorney Docket No. :

This is in response to the renewed petition, filed September 24, 2010, to revive the above-identified application, which is being treated as a petition to withdraw the holding of abandonment.

The petition is **DISMISSED**.

On April 22, 2009, the Office mailed a non-final Office action, which set a one (1) month or thirty (30) day (which is longer) shortened statutory period to reply. The application became abandoned on May 23, 2009, for failure to submit a timely response to the non-final Office action. On November 17 2009, the Office mailed a Notice of Abandonment.

In the present petition, petitioner requests that the Office withdraw the holding of abandonment due to non-receipt of the non-final Office action. Specifically, petitioner states that a timely reply was mailed via certificate of transmission on July 22, 2009, which included the following papers: an election with a two (2) month extension of time.

DISCUSSION OF PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

Petitioner continues the argument that he timely faxed the reply via certificate of transmission on July 22, 2009, which included the following papers: an election with a 2 month extension of time.

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 evidence petitioner has provided with his renewed petition is not sufficient enough to grant petitioner's request to withdraw the holding of abandonment. With this regard, the evidence provided does include the application number or the papers that were filed. Further the section of the manual that is quoted relates to papers filed with a certificate of mailing. Since the evidence provided does not have any identifiers to successfully say that the transmission is in any way related to the response filed with the petition relief cannot be granted by way of withdrawing the holding of abandonment. The petition has been reconsidered and the results remain the same.

ALTERNATIVE VENUE

Petitioner is strongly encouraged to consider filing a petition under 37 CFR 1.137(b) to revive an unintentionally abandoned application instead of filing a renewed petition under 37 CFR 1.181 or a petition under 37 CFR 1.137(a).

A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed. In nonprovisional utility application abandoned for failure to respond to a non-final Office action, the required reply may be met by filing either (A) an argument or amendment under 37 CFR 1.111 or (B) a continuing application under 37 CFR 1.53(b).

(2) The petition fee as set forth in 37 CFR 1.17(m), **$810.00 for a small entity**;

(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

A form for filing a petition to revive an unintentionally abandoned application accompanies this decision for petitioner's convenience. If petitioner desires to file a petition under 37 CFR 1.137(b) instead of filing a request for reconsideration, petitioner must complete the enclosed petition form (PTO/SB/64) and pay the $810.00 petition fee.

Petitioner may wish to consider hiring a registered patent attorney or agent to assist in the prosecution of this application. Additionally, petitioner is encouraged to contact the Inventors Assistance Center (IAC) by telephone at 800-786-9199 or 571-272-1000, Monday through Friday from 8:30 AM to 5:30 PM (EST). The IAC provides patent information and services to the public and is staffed by former Supervisory Patent Examiners and experienced Primary Examiners who answer general questions concerning patent examining policy and procedure.

Any request for reconsideration of this decision should be submitted within **TWO (2) MONTHS** from the mail date of this decision and be entitled "Renewed Petition to Withdraw the Holding of Abandonment under 37 CFR 1.181." *See* 37 CFR 1.181(f).

Further correspondence with respect to this matter should be addressed as follows:

By mail:
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX:
(571) 273-8300
Attn: Office of Petitions

By hand:
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries related to this decision may be directed to the April M. Wise at (571) 272-1642.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

Enclosures: Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b); Form PTO/SB/64, Privacy Act Statement.

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAR 09 2011

OFFICE OF PETITIONS

MUNCY, GEISSLER, OLDS & LOWE, PLLC
4000 LEGATO ROAD
SUITE 310
FAIRFAX, VA 22033

In re Application of :
Yung-Shu Yang :
Application No. 11/299,735 : DECISION ON PETITION
Filed: December 13, 2005 :
Attorney Docket No. :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 7, 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 April 22, 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 May 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 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 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 1792 for appropriate action by the Examiner in the normal course of business on the reply received February 7, 2011.

April M. Wise
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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SCHWARTZ LAW FIRM, P.C.
6100 FAIRVIEW ROAD, SUITE 11350
CHARLOTTE, NC 28210

MAILED

JAN 07 2011

OFFICE OF PETITIONS

In re Patent No. **7,555,378** :
Issue Date: June 30, 2009 :
Application No. 11/299,762 : NOTICE UNDER 37 CFR 1.28(C)
Filed: December 12, 2005 :
Attorney Docket No. **321/29A** :

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.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7253.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : June 15, 2011

TO SPE OF : ART UNIT 2629 SPE

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/299,799 Patent No.: 7,859,500 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square Building
2800 South Randolph Street
Arlington, VA 22206

Should the U.S. Patent Document reference "7,511,789 3/2009 Inoue et al." be entered as requested by applicant?

See COCIN dated 6-6-2011

Antonio Johnson

_____

Certificates of Correction Branch

(571)272-0483 Fax – (571)270-9846

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☑ **Approved** — **All** changes apply.

☐ **Approved in Part** — Specify below which changes **do not** apply.

☐ **Denied** — State the reasons for denial below.

Comments: _____

_____

SPE /Quan-Zhen Wang/ **Art Unit:** 2629

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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TROP, PRUNER & HU, P.C.
1616 S. VOSS ROAD, SUITE 750
HOUSTON TX 77057-2631

MAILED

NOV 18 2010

OFFICE OF PETITIONS

In re Application of	:	
Richard H. Cutright et al.	:	
Application No. 11/299,862	:	DECISION ON PETITION
Filed: December 12, 2005	:	
Attorney Docket No. **PUG.0071C1US**	:	

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 timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of March 10, 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) was obtained. Accordingly, the date of abandonment of this application is June 11, 2009.

The petition is hereby **GRANTED**.

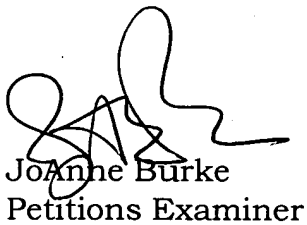
The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $405, and the submission required by 37 CFR 1.114; (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

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.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to be acknowledged as the attorney of record in this application, the appropriate power of attorney document must be submitted.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4584.

This application is being referred to Technology Center AU 1795 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.



JoAnne Burke
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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VOLPE AND KOENIG, P.C.
UNITED PLAZA, SUITE 1600
30 SOUTH 17TH STREET
PHILADELPHIA PA 19103

MAILED

AUG 09 2010

OFFICE OF PETITIONS

In re Application of :
Luke Anderson et al. :
Application No. 11/299,929 : ON PETITION
Filed: December 12, 2005 :
Attorney Docket No. AND2-PT002 :

This is a decision on the renewed petition under 37 CFR 1.137(b)[1], filed July 27, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on November 25, 2009, for failure to timely file a reply to the Final Office action mailed August 24, 2009, which set a three (3) month shortened statutory period for reply. No extensions of time under 37 CFR 1.136(a) were obtained. Accordingly, a Notice of Abandonment was mailed March 25, 2010.

A petition filed April 13, 2010 was dismissed in a decision mailed June 8, 2010, because the examiner indicated that the amendment filed with the petition did not prima facie place the application in condition for allowance.

In response thereof, petitioner has submitted a Request for Continued Examination (RCE) and an amendment as the submission required under 37 CFR 1.114.

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[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

This matter is being referred to Technology Center 2439 for processing of the RCE.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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OCT 28 2010

OFFICE OF PETITIONS

BERESKIN AND PARR LLP/S.E.N.C.R.L., s.r.l.
40 KING STREET WEST
BOX 401
TORONTO ON M5H 3Y2 CA CANADA

In re Application:	:	
Amer Hammami et al.	:	
Application No. 11/299,967	:	NOTICE
Filed: December 13, 2005	:	
Attorney Docket No. DSTM 14863-14	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed September 17, 2010. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby accepted. The petition is **GRANTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

This file is being forwarded to the Office of Publications.

Telephone inquiries related to this decision should be directed to the Kimberly Inabinet at (571) 272-4618.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 10/14/10 Paper No.: _____

TO SPE OF : ART UNIT 2836

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/300,011

Patent No.: 7,341,081

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

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

_____

_____

_____

SPE Jared Fureman ART UNIT 2836

UNITED STATES PATENT AND TRADEMARK OFFICE
COMMISSIONER OF PATENTS AND TRADEMARKS
P.O. Box 1450
Alexandria, VA 22313-1450

November 2, 2011

Patent No.: 8,010,843 B2
Applicant : Stefano Righi, et al.
Issued : August 30, 2011
For : **SYSTEM AND METHOD FOR DEBUGGING A TARGET COMPUTER USING SMBUS**
Docket No. : **60046.0196US01**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule 1.322/1.323.

Respecting the alleged error with the omission of patent document reference on the title page of patent, Item (56) References Cited. The patent reference being requested to be inserted "US Patent 7,165,041 7/2002 Golender et al." is stated incorrectly. The correct inventor of US Patent 7,165,041 is Guheen et al, not Golender et al, as the IDS dated 6-8-2011 states which is the reason reference was not included in list of U.S. Patent Doucments when patent was printed. Therefore, the change to add reference as shown in request for certificate of correction dated September 9, 2011 is disapproved.

In view of the foregoing, you request is hereby denied.

Further correspondence concerning this matter should be filed and directed to Decisions and Certificates of Correction Branch.

Antonio Johnson
(571)272-0483
For Mary F. Diggs, Supervisor
Decisions & Certificates of Correction Branch
(703) 756-1580

HOPE BALDAUFF HARTMAN, LLC
1720 PEACHTREE STREET, N.W
SUITE 1010
ATLANTA GA 30309

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : September 20, 2011

TO SPE OF : ART UNIT 2114 SPE Scott T. Baderman

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/300,045 Patent No.: 8,010,843 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square Building
2800 South Randolph Street
Arlington, VA 22206

Should the U.S. Patent Document "7,165,041 7/2002 Golender et al." be inserted as requested by applicant? See COCIN dated 9-9-2011

Antonio Johnson

Certificates of Correction Branch
(571)272-0483 Fax – (571)270-9846

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☐ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- **X Denied** — State the reasons for denial below.

Comments: US Patent 7,165,041 is for Guheen et al. not Golender et al. as the IDS states.

_____

_____

_____ _____ **SPE** /Scott Baderman/ **Art Unit** 2114

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

MAILED

JUN 28 2011

OFFICE OF PETITIONS

In re Application of :
Alina Deibler :
Application No. 11/300,063 : DECISION ON PETITION
Filed: December 14, 2005 TO WITHDRAW FROM RECORD
Attorney Docket No. GLOSO.001A :
:

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 1, 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 Jason Jardine, on behalf of all attorneys of record who are associated with Customer Number 20995.

All attorneys/agents associated with the Customer Number 20995 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 an outstanding Office action mailed April 22, 2011 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/
Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Alina Deibler
c/o Global Solutions and Resources LLC
6714 E. Osborn Road, Suite 1
Scottsdale, AZ 85251

UNITED STATES PATENT AND TRADEMARK OFFICE

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DAVID B. COCHRAN, ESQ.
JONES DAY
NORTH POINT
901 LAKESIDE AVENUE
CLEVELAND OH 44114

MAILED

JAN 31 2011

OFFICE OF PETITIONS

In re Application of
LEVERGOOD, Thomas M. et al.
Application No. 11/300,245
Filed: December 13, 2005
Attorney Docket No. **432383600035**

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 November 19, 2010.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office 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 David B. Cochran on behalf of all attorneys of record who are associated with customer No. 24325. All attorneys/agents associated 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 outstanding Office actions at this time.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **SOVERAIN SOFTWARE LLC**
233 S. WACKER DRIVE
SUITE 9425
CHICAGO, IL 60606

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
PO BOX 14300
WASHINGTON DC 20044-4300

MAILED

JAN 03 2011

OFFICE OF PETITIONS

In re Application of :
Amato :
Application No. 11/300,294 : ON PETITION
Filed: December 15, 2005 :
Attorney Docket No. 011351.56563US :

This is in response to petition to revive an unintentionally abandoned application under 37 CFR 1.137(b), filed December 10, 2010.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to timely file a proper response to the final Office action, mailed October 6, 2009, which set a shortened statutory period for reply of three months. Applicant filed an Amendment on November 6, 2009. However, the Examiner mailed an Advisory Action on November 24, 2009, stating that the Amendment would not be entered because it failed to place the application in condition for allowance. Applicant filed another reply on January 19, 2010, made timely by obtaining a one month extension of time. The Examiner mailed another Advisory Action on February 3, 2010. No further proper reply having been received, the application became abandoned on February 20, 2010. The Office mailed a Notice of Abandonment on November 9, 2010.

With the instant petition, petitioner paid the petition fee, made the proper statement of unintentional delay, and submitted the required reply in the form of an RCE.

The application is being forwarded to Group Art Unit 3657 for consideration of the RCE, filed December 10, 2010.

Telephone inquiries concerning this decision may be directed to the undersigned at 571-272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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HARRINGTON & SMITH
ATTORNEYS AT LAW, LLC
4 RESEARCH DRIVE
SUITE 202
SHELTON, CT 06484

MAILED
FEB 01 2012
OFFICE OF PETITIONS

In re Application of :
Jyrki Martti, et al. :
Application No. 11/300,297 : DECISION ON PETITION
Filed: December 15, 2005 :
Attorney Docket No. 800.0203 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 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 October 28, 2011, as required by the Notice of Allowance and Fee(s) Due, mailed July 28, 2011. Accordingly, the date of abandonment of this application is October 29, 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 $1740 and the publication fee of $300, (2) the petition fee of $1860; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642. All other inquiries concerning this application should be directed to the Office of Data Management at their hotline (571) 272-4200.

This application is being referred to the Office of Data Management for processing into a patent.

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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BROWDY AND NEIMARK, PLLC
1625 K STREET, N.W.
SUITE 1100
WASHINGTON, DC 20006

MAILED

APR 26 2011

OFFICE OF PETITIONS

In re Application of :
Yehuda Binder :
Application No. 11/300,313 : ON PETITION
Filed: December 15, 2005 :
Attorney Docket No. LOCAL AREA NETWORK
OF SERIAL INTELLIGENT CELLS

This is a decision on the petition, filed April 25, 2011 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on March 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 2471 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

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MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

MAILED

DEC 09 2010

OFFICE OF PETITIONS

In re Application of :
Neuman :
Application No. 11/300,610 : ON APPLICATION FOR
Filed: December 14, 2005 : PATENT TERM ADJUSTMENT
Atty Docket No. **16583US01** :

This is in response to the "APPLICATION FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 35 U.S.C. 154(b) ACCOMPANYING THE NOTICE OF ALLOWANCE (37 C.F.R. § 1.705)" filed December 1, 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 four hundred and ninety (1,490) days, not one thousand, two hundred and ninety-six (1,296) 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

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/300,619	12/14/2005	Hua E. Yu	010785-9006-US01	5952

23510 7590 02/23/2011
MICHAEL BEST & FRIEDRICH LLP
100 East Wisconsin Avenue
Suite 3300
Milwaukee, WI 53202

EXAMINER	
HALVORSON, MARK	
ART UNIT	PAPER NUMBER
1642	
MAIL DATE	DELIVERY MODE
02/23/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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February 22, 2011

MICHAEL BEST & FRIEDRICH LLP
100 East Wisconsin Avenue
Suite 3300
Milwaukee WI 53202

In re Application of :
Hua E. Yu, et al :
Application No. 11300619 :
Filed: 12/14/2005 :
Attorney Docket No. **010785-9006-US01** :

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) December 14, 2005.

The petition is **DISMISSED.**

A grantable petition under 37 C.F.R. 1.84(a) (2) must be accompanied by the following.

1. The fee set forth under 37 C.F.R. 1.17(h),
2. Three (3) sets of the color drawings in question, (One (1) set for EFW filings, and
3. The specification containing the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings

"The patent or application file contains at least one drawing executed in color. Copies of this patent or patent application publication with color drawing(s) will be provided by the Office upon request and payment of the necessary fee."

The petition did not meet the following requirement(s). 1 ☐ 2 ☑ 3 ☐

A renewed petition filed under 37 C.F.R. 1.84 (a) (2) must be filed within TWO (2) MONTHS of this decision. If a renewed petition is not filed within the TWO (2) Months of this decision the drawings will be printed in black and white.

Telephone inquires relating to this decision may be directed to the undersigned in the Office of Data Management at 571-272-4200.

/Laura L. Feldman/
Quality Control Specialist
Office of Data Management
Publications Branch

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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April 19, 2011

MICHAEL BEST & FRIEDRICH LLP
100 East Wisconsin Avenue
Suite 3300
Milwaukee WI 53202

In re Application of	:	
Hua E. Yu, et al	:	**DECISION ON PETITION**
Application No. 11300619	:	
Filed: 12/14/2005	:	***ACCEPTANCE OF COLOR***
Attorney Docket No. **010785-9006-US01**	:	***DRAWINGS***

This is a decision on the Petition to Accept Color Drawings under 37 C.F.R 1.84 (a) (2), received in the United States Patent and Trademark Office (USPTO) March 26, 2011.

The petition is **GRANTED**.

A grantable petition under 37 C.F.R. 1.84(a) (2) must be accompanied by the following.

1. The fee set forth under 37 C.F.R. 1.17(h),
2. Three (3) sets of the color drawings in question, or (1) set if filed via EFS, and
3. The specification contains appropriate language referring to the color drawings as the first paragraph in that portion of the specification relating to the brief description of the drawings.

The petition was accompanied by all of the required fees and drawings. The specification contains the appropriate language. Therefore, the petition is GRANTED.

Telephone inquires relating to this decision may be directed to the undersigned in the Office of Data Management at 571-272-4200.

/Laura Feldman/
Quality Control Specialist
Office of Data Management
Publications Branch

UNITED STATES PATENT AND TRADEMARK OFFICE

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.
11/300,619	12/14/2005	Hua E. Yu	010785-9006-US01	5952

7590 04/20/2011

MICHAEL BEST & FRIEDRICH LLP
100 East Wisconsin Avenue
Suite 3300
Milwaukee, WI 53202

EXAMINER
HALVORSON, MARK

ART UNIT	PAPER NUMBER
1642	

MAIL DATE	DELIVERY MODE
04/20/2011	PAPER

ACKNOWLEDGEMENT OF REQUEST

Notice of Allowance/Allowability Mailed

The request to print a color drawing reference as the first paragraph in the portion of the specification containing a brief description of the drawings as required by 37 CFR 1.84 and MPEP § 608.02 has been received by the United States Patent and Trademark Office and will be entered into the specification.

571-272-4200 or 1-888-786-0101
Application Assistance Unit
Office of Data Management

FORM PTOM327-5 (Rev. 02/08)

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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TOPE-MCKAY & ASSOCIATES
30765 PACIFIC COAST HIGHWAY #420
MALIBU, CA 90265

MAILED
SEP 23 2011
OFFICE OF PETITIONS

Applicant: Sakamoto, et al.
Appl. No.: 11/300,632
Filing Date: December 13, 2005
Title: SYSTEM AMD METHOD FOR FABRICATION OF HIGH EFFICIENCY DURABLE THERMOELECTRIC DEVICES
Attorney Docket No.: CIT015-CIP
Pub. No.: US 2006/0157101 A1
Pub. Date: July 20, 2006

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on January 28, 2011, for the above-identified application

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains material errors on the front page of the application wherein the third and sixth inventors' name and the fifth inventors' city of residence are misspelled.

37 CFR 1.221 (b) is applicable "only when the Office makes a material mistake which is apparent from Office records.... Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed **within two months** from the date of the patent application publication. **This period is not extendable**." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. [1]

The request for corrected publication received on January 28, 2011, was not timely filed under 37 CFR 1.221(b).

The error on the front page of the publication wherein two of the inventor's names and the city of residence for one inventor have typographical errors are not material Office error as required under 37 CFR 1.1221(b). Applicant is advised that he may want to file application papers that are clearer, as this error is due to the quality of the text in the Oath. Furthermore, the error of an inventor's name and/or city of residence do not affect the understanding of the application. The

[1]Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239, Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

mistakes do not affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

A guide for filing a request for a Pre-Grant Publication, such as a request for republication, may be found on the link below:

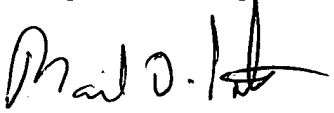
http://www.uspto.gov/patents/process/file/efs/guidance/index.jsp

http://www.uspto.gov/ebc/portal/efs/pgpub_quickstart.pdf

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system, as a "Pre-Grant Publication" and questions or request for reconsideration of the decision, should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

Inquiries relating to this matter may be directed to Mark Polutta 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

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

MAILED

JUN 13 2011

OFFICE OF PETITIONS

BRINKS HOFER GILSON & LIONE/CHICAGO/COOK
PO BOX 10395
CHICAGO IL 60610

In re Patent No. 7,959,660 : DECISION ON APPLICATION FOR
Issued: June 14, 2011 : PATENT TERM ADJUSTMENT and
Application No. 11/300,635 : NOTICE OF INTENT TO ISSUE
Filed: December 14, 2005 : CERTIFICATE OF CORRECTION
Dkt. No.: 8627-1092 (PA-5644-RFB) :

This decision is in response to the "REQUEST FOR REVIEW OF PATENT TERM ADJUSTMENT," filed May 9, 2011. This matter is being treated under 37 CFR 1.705(d).

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 328 days.

The above-identified application issued as U.S. Pat. No. 7,959,660 on June 14, 2011. The patent issued with a patent term adjustment of 292 days. The instant application for patent term adjustment was filed May 9, 2011, at the time of submission of the issue fee. Patentees assert that the term indicated on the patent may extend the term of the patent by too many days.

The record has been carefully reviewed and the calculation of adjustment is set forth herein.

The patent is entitled to an adjustment of 413 days pursuant to 37 CFR 1.702(a)(1) and 155 days pursuant to 37 CFR 1.702(b).

In addition to the 239 days of reduction previously assessed, the patent term adjustment is subject to one additional day of reduction pursuant to 37 CFR 1.704(c)(8). The reduction commenced July 13, 2010, the day after the date that the initial reply was filed, and ended July 13, 2010, the date that the supplemental reply was filed.

Further review of the record reveals that the Office errantly accorded a reduction of 37 days in connection with the documents filed May 9, 2011. As none of the papers filed May 9, 2011 are considered a failure to engage in reasonable efforts to conclude prosecution or processing, the reduction of 37 days has been restored.

Accordingly, as of the time of issuance, the patent is entitled to an overall patent term adjustment of 328 days (413 days under 37 CFR 1.702(a) + 155 days under 37 CFR 1.702(b) – 240 days under 37 CFR 1.704).

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136. See, 37 CFR 1.323(a)(4).

The required $200.00 fee set forth in 37 CFR 1.18(e) as 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 328 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 : 7,959,660

DATED : June 14, 2011 **DRAFT**

INVENTOR(S) : :Lentz

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 292 days

Delete the phrase "by 292 days" and insert -- by 328 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

LEVINE BAGADE HAN LLP
2400 GENG ROAD SUITE 120
PALO ALTO CA 94303

MAILED
JAN 25 2011
OFFICE OF PETITIONS

In re Application of	:	
John H. Shadduck	:	
Application No. 11/300,689	:	DECISION ON PETITION
Filed: December 14, 2005	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. SHDDNA00100	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed May 27, 2010, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed non-provisional applications set forth in the concurrently filed Amendment.

The petition is **DISMISSED**

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000 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).

The amendment is not acceptable because the Examiner has determined it does not *prima facie* place the application in condition for allowance. A proper response to a final Office action consists of either: (1) an amendment that *prima facie* places the application in condition for allowance; (2) a Notice of Appeal; (3) a Request for Continued Examination; or (4) a continuing application.

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 Petitions Attorney Cliff Congo at (571) 272-3207.

Chris Bottorff
Supervisory Petitions Examiner
Office of Petitions

Enc: Advisory Action (2 pages)

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

LEE & HAYES, PLLC
601 W RIVERSIDE
SUITE 1400
SPOKANE WA 99201

MAILED

MAR 16 2011

OFFICE OF PETITIONS

In re Application of	:	
Smitherman et al.	:	DECISION ON PETITION
Application No. 11/300,703	:	TO WITHDRAW
Filed: December 15, 2005	:	FROM RECORD
Attorney Docket No. CCON001US0	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed January 26, 2011, which is being treated as a request to withdraw from employment in a proceeding before the Office under 37 C.F.R. § 10.40.

The request is **DISMISSED**.

A review of the file record indicates that Lewis C. Lee does not have power of attorney in this patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

The request to change the correspondence address of record is not accepted in view of Lewis C. Lee not having power of attorney. See MPEP §§ 601.03 and 405.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Currently, there is an outstanding Office action mailed September 28, 2010 that requires a reply.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-7751.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Margaret Anderson
106 E. 6th Street, Suite 900
Austin TX 78701

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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LEE & HAYES, PLLC
601 W. RIVERSIDE AVENUE
SUITE 1400
SPOKANE WA 99201

MAILED

MAR 17 2011

OFFICE OF PETITIONS

In re Application of
SMITHERMAN, et al
Application No. 11/300,704
Filed: December 15, 2005
Attorney Docket No. CCON004US0

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 January 28, 2011.

The request is **NOT APPROVED**.

The Office will no longer approve requests from practitioners to withdraw from applications where the requesting practitioner 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 a 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 documents they file.

A review of the file record indicates that Lewis C. Lee 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.

Further, the request to withdraw from record cannot be approved because the request to change the correspondence address is not accompanied by a power of attorney nor is the correspondence address that of an assignee of the entire interest who has been properly made of record under 37 CFR 3.71 or the first named inventor.

All future communications from the Office will continue to be directed to the above-identified address until otherwise properly notified.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-6735.

/Diane C. Goodwyn/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAR 16 2011

OFFICE OF PETITIONS

LEE & HAYES, PLLC
601 W RIVERSIDE
SUITE 1400
SPOKANE WA 99201

In re Application of	:	
Smitherman et al.	:	DECISION ON PETITION
Application No. 11/300,738	:	TO WITHDRAW
Filed: December 15, 2005	:	FROM RECORD
Attorney Docket No. CCON003US0	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed January 26, 2011, which is being treated as a request to withdraw from employment in a proceeding before the Office under 37 C.F.R. § 10.40.

The request is **DISMISSED**.

A review of the file record indicates that Lewis C. Lee does not have power of attorney in this patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

The request to change the correspondence address of record is not accepted in view of Lewis C. Lee not having power of attorney. See MPEP §§ 601.03 and 405.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Currently, there is an outstanding Office action mailed February 4, 2011 that requires a reply.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-7751.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Margaret Anderson
106 E. 6th Street, Suite 900
Austin TX 78701

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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ASHKAN NAJAFI, P.A.
6817 SOUTHPOINT PARKWAY
SUITE 2301
JACKSONVILLE FL 32216

MAILED
APR 11 2011
OFFICE OF PETITIONS

In re Application of :
Gary Alexander, et al. :
Application No. 11/300,844 : DECISION ON PETITION
Filed: December 16, 2005 :
Attorney Docket No. **OLS106** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 14, 2011, to revive the above-identified application.

This application became abandoned for failure to timely pay the issue fee on or before March 15, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed December 15, 2009. Accordingly, the date of abandonment of this application is March 16, 2010.

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 payment of the issue fee of $755, (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

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.
11/300,928	12/15/2005	S. Ananth Karumanchi	01948/108002	4630

21559 7590 03/11/2011

CLARK & ELBING LLP
101 FEDERAL STREET
BOSTON, MA 02110

EXAMINER	
CHEU, CHANGHWA J	
ART UNIT	PAPER NUMBER
1641	

NOTIFICATION DATE	DELIVERY MODE
03/11/2011	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):

patentadministrator@clarkelbing.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

March 9, 2011

CLARK & ELBING LLP
101 FEDERAL STREET
BOSTON MA 02110

In re Application of :
Karumanchi, S. Ananth et al :
Application No. 11/300,928 :
Filed: 12/15/2005 :
Attorney Docket No. 01948/108002 :

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) December 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 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 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.

/Kimberly Terrell/
Manager
Office of Data Management
Publications Branch

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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ERICSSON INC.
6300 LEGACY DRIVE
M/S EVR 1-C-11
PLANO TX 75024

MAILED

DEC 29 2010

OFFICE OF PETITIONS

In re Application of :
Anders Wallen et al. :
Application No. 11/301,100 : DECISION ON PETITION
Filed: December 12, 2005 :
Attorney Docket No. P18268-US1 :

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 January 14, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed October 14, 2008. Accordingly, the date of abandonment of this application is January 15, 2009. A Notice of Abandonment was mailed on February 2, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,510 and the publication fee of $300, (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay. Accordingly, the issue and publication fees are accepted as being unintentionally delayed.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to the Office of Data Management for further processing into a patent.

/Kimberly A. Inabinet/

Kimberly A. Inabinet
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110510-A

DATE : May 10, 2011

TO SPE OF : ART UNIT 1611

SUBJECT : Request for Certificate of Correction on Patent No.: 11/301,100

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:

/David C. Payne/
Supervisory Patent Examiner, Art Unit 2611

UNITED STATES 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 D. GUNDERMAN, JR.
PATENT TECHNOLOGIES, LLC
150 LUCIUS GORDON DRIVE, SUITE 205
WEST HENRIETTA NY 14586

MAILED

MAR 08 2011

OFFICE OF PETITIONS

In re Application of :
Yogesh :
Application No. 11/301,201 : ON PETITION
Filed: December 12, 2005 :
Attorney Docket No. KPY005 :
For: SYSTEM AND METHOD FOR IMPROVED MEDICAL BILLING, PAYMENT, RECORD KEEPING AND PATIENT CARE

This is a decision on the petition under 37 CFR 1.137(b), filed January 31, 2011, to revive the above-identified application.

The petition under 37 CFR 1.137(b) is **GRANTED**.

This application became abandoned for failure to timely reply to the final Office action, mailed April 5, 2010, which set a three month period for reply. No proper extensions of time having been obtained pursuant to 37 CFR 1.136(a), this application became abandoned on July 6, 2010. A Notice of Abandonment was mailed on October 13, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuing application under 37 CFR 1.53(b); (2) the petition fee of $810.00; and (3) a proper statement of unintentional delay.

The above-identified application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving the above-identified application, the above-identified application is again abandoned in favor of continuing Application No. 12/896,907, filed October 3, 2010.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $555.00 extension of time fee submitted with the petition on January 31, 2011 was submitted subsequent to the expiration of the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's credit card.

After the mailing of this decision, the application will be returned to Files Repository.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED

MAR 16 2012

PCT LEGAL ADMINISTRATION

LIFE TECHNOLOGIES CORPORATION
Attn: IP Department
5791 Van Allen Way
Carlsbad CA 92008

In re Application of :
SAUER et al. :
Application No.: 11/301,259 :
Attorney Docket No.: LT00270.2 DIV US :
For: ULTRA-FAST NUCLEIC ACID :
SEQUENCING DEVICE AND A METHOD :
FOR MAKING AND USING THE SAME :

DECISION ON PETITION
UNDER 37 CFR 1.78(a)(6)

This is a decision on the petition under 37 CFR 1.78(a)(6), filed December 22, 2011, to accept an unintentionally delayed claim for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment and the Application Data Sheet (ADS).

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 provisional application is submitted after expiration of the period specified in 37 CFR 1.78(a)(5)(ii). Therefore, this is a proper 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 Commissioner 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 above-noted, prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title and/or in an ADS, as provided by 37 CFR 1.78(a)(5)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the statement contained in the petition filed December 22, 2011, 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" has been construed as 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. Petitioner must notify the Office if this is not a correct reading of the statement in the petition. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 119(e) to the above-noted, prior-filed provisional application satisfies the conditions of 37 CFR 1.78(a)(6), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior-filed application. In order for the instant application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the Filing Receipt will include the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed application, accompanies this decision on petition.

Any questions concerning this matter may be directed to Daniel Stemmer at (571)-272-3301. 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 Art Unit 2892 for appropriate action on the amendment submitted December 22, 2011, including consideration by the examiner of the claim under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(5) for the benefit of the prior-filed provisional applications.

/Daniel Stemmer/

Daniel Stemmer
PCT Legal Examiner
Office of PCT Legal Administration

/Bryan Lin/

Bryan Lin
PCT Legal Examiner
Office of PCT Legal Administration

ATTACHMENT: Corrected Filing Receipt

UNITED STATES 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 March 1, 2012

In re Application of Mark Roche

Application No. 11301294

Filed: 09-Dec-2005

DECISION ON PETITION

UNDER CFR 1.137(b)

Attorney Docket No. 7785-68 (KV2001)

This is an electronic decision on the petition under 37 CFR 1.137(b), March 1, 2012 , to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the outstanding Office communication. The date of abandonment is the day after the last day of the period set for reply in the Office action plus any applicable extensions of time properly requested.

The electronic petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a response; (2) the petition fee as set forth in 37 CFR 1.17 (m); and (3) the required statement of unintentional delay have been received. Accordingly, the response is accepted as having been unintentionally delayed.

The statement of unintentional delay is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay and by a person having firsthand or direct knowledge of the facts and circumstances of the delay at issue. 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 Technology Center.

Office of Petitions

Doc Code: PET.AUTO Document Description: Petition automatically granted by EFS-Web	PTO/SB/64 U.S. Patent and Trademark Office Department of Commerce

Electronic Petition Request	**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)**
Application Number	11301294
Filing Date	09-Dec-2005
First Named Inventor	Mark Roche
Attorney Docket Number	7785-68 (KV2001)
Title	Session continuity in multimedia services

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus any extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
(4) Statement that the entire delay was unintentional

Petition Fee

- ○ Applicant claims SMALL ENTITY status. See 37 CFR 1.27.
- ○ Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).
- ○ Applicant(s) status remains as SMALL ENTITY.
- ◉ Applicant(s) status remains as other than SMALL ENTITY.

2. Reply and/or fee

- ○ I certify, in accordance with 37 CFR 1.4(d)(4) that the amendment and response have already been filed in the above-identified application on
- ◉ Amendment and response are attached

RCE request,submission, and fee.

- ○ I certify, in accordance with 37 CFR 1.4(d)(4) that the RCE Request, Submission, and Fee have already been filed in the above-identified application on
- ○ RCE Request, Submission, and Fee are attached

Notice of Appeal

○	I certify, in accordance with 37 CFR 1.4(d)(4) that the Notice of Appeal and Fee have already been filed in the above-identified application on
○	Notice of Appeal and Fee are attached

3. Terminal Disclaimer is not required, since the Electronic Petition format is not support for Design applications and applications filed before June 8, 1995. Please file using regular petition format for review by the Office of Petitions.

☒	STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional.

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

I certify, in accordance with 37 CFR 1.4(d)(4) that I am:

○	An attorney or agent registered to practice before the Patent and Trademark Office who has been given power of attorney in this application.
◉	An attorney or agent registered to practice before the Patent and Trademark Office, acting in a representative capacity.
○	A sole inventor
○	A joint inventor; I certify that I am authorized to sign this submission on behalf of all of the inventors
○	A joint inventor; all of whom are signing this e-petition
○	The assignee of record of the entire interest that has properly made itself of record pursuant to 37 CFR 3.71

Signature	/Andrew C. Gust/
Name	Andrew C. Gust
Registration Number	47620

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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3/29/2011

Patent No. :7851218
Ser. No. :11/301309
Inventor(s) :Howe et al.
Issued :12/14/10
Title : CELL LINES FOR PRODUCTION OF REPLICATION-DEFECTIVE ADENOVIRUS
Docket No. :

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid,* including after issuance of the patent.

In view of the foregoing, your request, in this mater, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.17(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (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 to correct the remaining errors noted in your request.

Henry Randall
Decisions & Certificates
of Correction Branch
(703) 756-1571

MERCK & CO., INC.
PATENT DEPARTMENT, K-6-1
2000 GALLOPING HILL ROAD
KENILWORTH, NEW JERSEY 07033-0530

HR

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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MERCK
P O BOX 2000
RAHWAY NJ 07065-0907

MAILED
MAR 26 2012
OFFICE OF PETITIONS

In re Patent No. 7,851,218 :
Issue Date: December 14, 2010 :
Application No. 11/301,309 : DECISION ON PETITION
Filed: December 12, 2005 :
Attorney Docket No. CJ06335US01 :

This is a decision on the "PETITION TO CORRECT ERRORS ON ISSUED PATENT", filed March 5, 2012.

The petition is **GRANTED.**

An application may issue in the name of an assignee rather than the applicant if requested prior to issuance of a patent.[1] However, in the event the request is not made prior to issuance, a Certificate of Correction under 37 CFR 1.323 may be requested. A request for a Certificate of Correction under 37 CFR 1.323 to correct the assignee's name will not be granted unless a petition under 37 CFR 3.81(b) is granted. Such request under 37 CFR 3.81(b) should include:

(A) the processing fee required by 37 CFR 1.17(i);

(B) a request for issuance of the application in the name of the assignee, or a request that a patent be corrected to state the name of the assignee;

(C) a statement that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent; and

[1] See 37 CFR 3.81.

(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 for the instant petition and the $100 fee for the Certificate of Correction is acknowledged.

The application is being forwarded to the Certificate of Corrections Branch for issuance of the requested Certificate of Correction.

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

[2] MPEP 307.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 1/3/2012

TO SPE OF : ART UNIT 1623

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/301326 Patent No.: 7495006 B2

CofC mailroom date: 12/7/2011

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Note: _____

_____

Virginia Tolbert

Certificates of Correction Branch

(571) 272-0460

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: Applicant has made a proper request under 37 CFR 1.324 to add Raymond F. Schinazi as an inventor. The inventorship should be appropriately corrected.

_____

_____

_____ 1623

SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP
1250 CONNECTICUT AVENUE, NW
SUITE 700
WASHINGTON DC 20036

MAILED

AUG 23 2010

OFFICE OF PETITIONS

In re Application of	:	
Taiji Torigoe, et al.	:	
Application No. 11/301,339	:	DECISION GRANTING PETITION
Filed: December 13, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 053467	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, August 20, 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 16, 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 2814 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Terri Johnson
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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FISH & RICHARDSON P.C. (TC)
PO BOX 1022
MINNEAPOLIS MN 55440-1022

MAILED
JAN 13 2012
OFFICE OF PETITIONS

In re Patent No. 8,043,341	:	
Zhao et al.	:	DECISION ON REQUEST FOR
Issue Date: October 25, 2011	:	RECONSIDERATION OF
Application No. 11/301,473	:	PATENT TERM ADJUSTMENT
Filed: December 13, 2005	:	
Attorney Docket No. 07039-339002/2001-087	:	

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 three hundred fifty-seven (1,357) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **DISMISSED.**

Receipt of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. No additional fees are required.

BACKGROUND

On October 25, 2011, the above-identified application matured into U.S. Patent No. 8,043,341, with a revised patent term adjustment of 1,209 days. On December 27, 2011, patentee timely[1] submitted this request for reconsideration of patent term adjustment (with required fee), asserting that the correct number of days of Patent Term Adjustment is 1,357 days. Patentee maintains that the Office incorrectly calculated Office delay pursuant to 37 CFR 1.702(b). Patentee contends that the

[1] The 27th was the first business day after a federal holiday.

Office erred in subtracting from the "B delay" a period of time that was not "consumed by continued examination of the application." Specifically, Patentee argues that (after the filing of the request for continued examination on December 7, 2009) the Office mailed a Notice of Allowance on May 31, 2011, thereby closing examination of the application on that date. Thus, Patentees argue no continued examination took place during the 148 day period from May 31, 2011 (the mailing date of the Notice of Allowance) until October 25, 2011 (the date the patent was issued). As such, Patentee maintains that the "B delay" should include the 148 days and be increased from 358 to 506 days.

RELEVANT STATUTE AND REGULATIONS

The statutory basis for calculation of "B delay" is 35 U.S.C. 154(b)(1)(B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY, which provides that:

Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including –

(i) any time consumed by continued examination of the application requested by the applicant under section 132(b);

(ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or

(iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued.

The implementing regulation, 37 CFR 1.702(b) provides that:

Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the

Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application, but not including:

(1) Any time consumed by continued examination of the application under 35 U.S.C. 132(b);

(2) Any time consumed by an interference proceeding under 35 U.S.C. 135(a);

(3) Any time consumed by the imposition of a secrecy order under 35 U.S.C. 181;

(4) Any time consumed by review by the Board of Patent Appeals and Interferences or a Federal court; or

(5) Any delay in the processing of the application by the Office that was requested by the applicant.

OPINION

Patentee's arguments have been considered, but not found persuasive. The Office calculated the period of "B delay" pursuant to 35 U.S.C. 154(b)(1)(B)(i) and 37 CFR 1.702(b)(1) as 358 days based on the application having been filed under 35 U.S.C. 111(a) on December 13, 2005 and the patent not having issued as of the day after the three year date, December 14, 2008, and a request for continued examination under 132(b) having been filed on December 7, 2009. In other words, the entire 688-day period (including the 148 day period beginning on May 31, 2011) from the date of filing of the request for continued examination to the date of issuance of the patent was not included in the "B delay."

The Office's calculation of "B delay" is correct. The "B delay" is an adjustment entered if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed. However, the adjustment does not include, among other things, any time consumed by continued examination of the application at the request of the applicant under 35 U.S.C. 132(b)[2]. So, with respect to calculating the "B delay" where

[2] Pursuant to 35 U.S.C. 132(b) , 37 CFR 1.114 provides for continued examination of an application, as follows:

> (a) If prosecution in an application is closed, an applicant may request continued examination of the application by filing a submission and the fee set forth in § 1.17(e) prior to the earliest of:

applicant has filed a request for continued examination, the period of adjustment is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the number of days in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued.

Further, counting the period of time excluded from the three-year period for the filing of a request for continued examination under 35 U.S.C. 132(b), from the date on which the request for continued examination is filed to the date the patent is issued is proper. Patentee does not dispute that time consumed by continued examination of an application under 35 U.S.C. 132(b) is properly excluded and that the calculation of the excluded period begins on the date of filing of the request for continued examination. At issue is what further processing or examination beyond the date of filing of the request for continued examination is time consumed by continued examination of the application under 35 U.S.C. 132(b). The USPTO indicated in September of 2000 in the final rule to implement the patent term adjustment provisions of the AIPA that once a request for continued examination under 35 U.S.C. 132(b) and 37 CFR 1.114 is filed in an application, any further processing or examination of the application, including granting of a patent, is by virtue of the continued examination given to the application under 35 U.S.C. 132(b) and CFR 1.114. See Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term, 65 Fed. Reg. 56365, 56376 (Sept. 18, 2000) (response to comment 8). Thus, the excluded period begins with the filing of the request for continued examination and ends with the issuance of the patent.

---

(1) Payment of the issue fee, unless a petition under § 1.313 is granted;

(2) Abandonment of the application; or

(3) The filing of a notice of appeal to the U.S. Court of Appeals for the Federal Circuit under 35 U.S.C. 141, or the commencement of a civil action under 35 U.S.C. 145 or 146, unless the appeal or civil action is terminated.

(b) Prosecution in an application is closed as used in this section means that the application is under appeal, or that the last Office action is a final action (§ 1.113), a notice of allowance (§ 1.311), or an action that otherwise closes prosecution in the application.

Patentee's argument that the period of time after the issuance of a notice of allowance on a request for continued examination is not "any time consumed by continued examination requested by the applicant under section 132(b)" within the meaning of 35 U.S.C. 154(b)(1)(B)(i) is not availing. This limitation is not supported by the statutory language. Garcia v. United States, 469 U.S. 70, 75 (1984) ("only the most extraordinary showing of contrary intentions from [legislative history] would justify a limitation on the 'plain meaning' of the statutory language"). BP Am. Prod. Co. v. Burton, 549 U.S. 84, 91 (2006) ("Unless otherwise defined, statutory terms are generally interpreted in accordance with their ordinary meaning"). The statute provides for a guarantee of no more than 3-year application pendency, by providing for an adjustment in the patent term:

First, "Subject to the limitations of paragraph (2)," meaning that the limitations of paragraph 2 apply to this paragraph's extension 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 issuance 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 is not counted continuously from the date of filing of the application to the day 3 years after the filing date of the application, but rather the three-year period for the Office to issue a patent is counted not beginning on the date of filing of the application in the United States but not including "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. Nonètheless, the context of the legislation should be considered. As stated in Wyeth v. Dudas, 2008 U.S. Dist. LEXIS 76063 (D.D.C., September 30, 2008), because the clock for calculating the 20-year patent term begins to run on the filing date, and not on the day the patent is actually granted, some of the effective term of a patent is consumed by the time it takes to prosecute the application. To mitigate this effect, the statute, *inter alia*, grants extensions 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 in "that 3-year period" any days it takes to prosecute the application as specified in clauses (i)-(ii). The "any" signifies that the days taken up 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. The "time consumed by" refers to the days taken up with 1) continued examination of the application under section 132(b)(the filing of a request for continued examination), 2) interference proceedings, 3) secrecy orders, 4) appellate review or 5) any delay in processing requested by applicant, except as permitted by paragraph (3)(C), which allows with an adequate showing by

applicant for reinstatement of no more than 3 months of the patent term reduced for applicant delay in taking in excess of three months to respond. 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 taken up with or any time consumed by clauses (i)-(iii), including 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 taken up with 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).

By nature, the examination process continues to issuance of the patent. The examination process involves examining the application to ascertain whether it appears that the applicant is entitled to a patent under the law. See 35 U.S.C. 131 ("[t]he Director shall cause an examination to be made of the application and the alleged new invention; and if on such examination it appears that the applicant is entitled to a patent under the law, the Director shall issue a patent therefor"). If on examination it appears that the applicant is entitled to a patent, the USPTO issues a notice of allowance. See 35 U.S.C. 151 ("[i]f it appears that applicant is entitled to a patent under the law, a written notice of allowance of the application shall be given or mailed to the applicant"). If on examination it appears that the applicant is not entitled to a patent, the USPTO issues a notice (an Office action) stating the applicable rejection, objection, or other requirement, with the reasons therefor. See 35 U.S.C. 132 ("[w]henever, on examination, any claim for a patent is rejected, or any objection or requirement made, the Director shall notify the applicant thereof, stating the reasons for such rejection, or objection or requirement, together with such information and references as may be useful in judging of the propriety of continuing the prosecution of his application"). Neither the issuance of a notice of allowance nor the insurance of an Office

action terminates the examination process. If after the issuance of an Office action under 35 U.S.C. 132 it subsequently appears that the applicant is entitled to a patent (e.g., in response to an argument or amendment by the applicant), the USPTO will issue a notice of allowance. Conversely, if after the issuance of a notice of allowance under 35 U.S.C. 151 it subsequently appears that the applicant is not entitled to a patent (e.g., in response to information provided by the applicant or uncovered by the USPTO), the USPTO will withdraw the application from issuance and issue an Office action under 35 U.S.C. 132 stating the applicable rejection, objection, or other requirement, with the reasons therefor.

As held in Blacklight Power, the USPTO's responsibility to issue a patent containing only patentable claims does not end with the issuance of a notice of allowance under 35 U.S.C. 151. See BlackLight Power, Inc. v. Rogan, 295 F.3d 1269, 1273 (Fed. Cir. 2002). Rather, if there is any substantial, reasonable ground within the knowledge or cognizance of the Director as to why an application should not issue, it is the USPTO's duty to refuse to issue the patent even if a notice of allowance has previously been issued for the application. See In re Drawbaugh, 9 App. D.C. 219, 240 (D.C. Cir 1896).

Moreover, the applicant continues to be engaged in the examination process after the mailing of the notice of allowance. 37 CFR 1.56 makes clear that the applicant has a duty to disclose information material to patentability as long as the application is pending before the USPTO (i.e., until a patent is granted or the application is abandoned). See 37 CFR 1.56(a) ("[t]he duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned"). 37 CFR 1.97 and 1.98 provide for the consideration of information submitted by the applicant after a notice of allowance has been mailed. See 37 CFR 1.97(d). In addition, 37 CFR 1.312 provides for the amendment of an application after a notice of allowance has been mailed. In fact, the request for examination procedures permit the filing of a request for continued examination under 37 CFR 1.114 even after the issuance of a notice of allowance under 35 U.S.C. 151. See 37 CFR 1.114(a)(1).

As the examination process does not terminate with the mailing of the notice of allowance, the time consumed by continued examination 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 filing of the request for continued examination to the mailing of the notice of allowance through issuance of the patent is a consequence of the filing of the request for continued examination. Further action by the Office is pursuant to that request. Absent the filing of the request for continued examination, the prosecution of the application would have taken a different direction, which may or may not have resulted in the patent issuing within three years.

All of the continued examination pursuant to the filing of the request by the applicant is properly excluded from the delay attributed to the Office. 35 U.S.C. 154(b)(1)(B)'s guarantee of a total application pendency of no more than three years provides for adjustment of the patent term for delay due to the Office's failure to issue the patent within three years, but does not include "any time consumed by continued examination requested by the applicant under 35 U.S.C. 132(b)." It is not necessary to mitigate the effect on the 20-year term to the extent that applicant has requested that the Office continue to examine the application via a request for continued examination, in lieu of, the filing of a continuing application under 37 CFR 1.53(b).

In this instance, a request for continued examination was filed on December 7, 2009, and the patent issued by virtue of that request on October 25, 2011. Pursuant to 35 U.S.C. 154(b)(1)(B)(i), the period beginning on December 7, 2009 and ending on October 25, 2011 is not included in calculating Office delay.

CONCLUSION

In view thereof, the patent term adjustment in the above-identified patent remains 1,209 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) 272-3219.

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