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GARLICK HARRISON & MARKISON
P.O. BOX 160727
AUSTIN TX 78716-0727

MAILED

MAR 10 2011

OFFICE OF PETITIONS

In re Application of
Rajendra Tushar Moorti et al.
Application No. 11/301,522
Filed: December 13, 2005
Attorney Docket No: BP4646

ON PETITION

This is a decision on the petition under 37 CFR 1.182 filed September 22, 2010 and the petition under 37 CFR 1.137(b),[1] filed March 4, 2011, to revive the above-identified application.

The petition under 37 CFR 1.182 is **DISMISSED**.
The petition under 37 CFR 1.137(b) is **GRANTED**.

Although a reply was filed September 22, 2010 with the petition under 37 CFR 1.182, this application had already become abandoned for failure to timely reply to the Notice to File Corrected Application Papers mailed on August 18, 2010, which set a one (1) month non-extendable shortened period for reply. The instant petition and this decision precede the filing of the Notice of Abandonment.

As all other requirements of 37 CFR 1.137(b) have been met, this matter is being referred to the Publishing Division.

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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[1]Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Director may require additional information where there is a question whether the delay was unintentional; and

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

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Casimir Jones, S.C.
2275 DEMING WAY, SUITE 310
MIDDLETON WI 53562

MAILED

OCT 24 2011

OFFICE OF PETITIONS

In re Application of	:	
Fink et al.	:	
Application No. 11/301524	:	
Filing or 371(c) Date: 12/13/2005	:	ON PETITION
Patent No. 7384748	:	
Issue Date: 10/09/2007	:	
Title of Invention:	:	
COMPOSITIONS AND METHODS FOR	:	
DETECTING AND TREATING MOTOR	:	
NEURON DISORDERS	:	

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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Casimir Jones, S.C.
2275 DEMING WAY, SUITE 310
MIDDLETON WI 53562

MAILED
OCT 24 2011
OFFICE OF PETITIONS

In re Application of	:	
Fink et al.	:	
Application No. 11/301524	:	
Filing or 371(c) Date: 12/13/2005	:	ON PETITION
Patent No. 7384748	:	
Issue Date: 10/09/2007	:	
Title of Invention:	:	
COMPOSITIONS AND METHODS FOR	:	
DETECTING AND TREATING MOTOR	:	
NEURON DISORDERS	:	

This is a decision on the "Request for Certificate of Correction," filed October 5, 2011, to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction. The petition is properly treated under 37 CFR 3.81(b).

The Petition is granted.

The petition was accompanied by a certificate of correction as required by 3.81(b), and the fee submitted with the present petition. Further, Office assignment records reflect that The Regents of the University of Michigan and the United States Government as represented by the Department of Veterans Affairs, are the assignees of record. As the request complies with the provisions of 37 CFR 3.81(b), it would be appropriate for a certificate of correction to be processed.

The processing fee, $130.00, has been charged to petitioner's deposit account as authorized in the petition.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

This matter is being referred to the Certificates of Correction Branch for processing of a certificate of correction after issuance of this application into a patent.

/DLW/

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Patent No : 7,384,748 B2
Ser. No. : 11/301,524
Inventor(s) : Fink, et. al.
Issued : June 10, 2008

Re: Request for Certificate of Correction

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

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

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

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

A. **the processing fee set forth in 37 CFR 1.17(i) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

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

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

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

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

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

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

Eva James
For Mary Diggs
Decisions & Certificates
of Correction Branch
(571) 272-3422 or 703- 756 -1580

Casimir Jones SC
2275 Deming Way, Suite 310
Middleton, WI 53562

ej

MATAR

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11/9/11

TO SPE OF : ART UNIT 2614

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/301,623 Patent No.: 8036346

CofC mailroom date: 11/0211

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

RoChaun Hardwick
Certificates of Correction Branch
703-756-1580

Thank You For Your Assistance

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

☒ **Approved** — All changes apply.

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

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

Comments: _____

SPE of AU 2614

SPE **Art Unit**

PTOL-306 (REV. 7/03) U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

MATAR

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11/9/11

TO SPE OF : ART UNIT 2614

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/301,623 Patent No.: 8036346

CofC mailroom date: 11/0211

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

RoChaun Hardwick
Certificates of Correction Branch
703-756-1580

Thank You For Your Assistance

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

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

Comments: _____

SPE of AU 2614

SPE **Art Unit**

PTOL-306 (REV. 7/03) U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No.

MERCK
126 East Lincoln Ave
RY60-30
Rahway NJ 07065

MAILED
FEB 15 2011
OFFICE OF PETITIONS

In re Patent No. 7,598,259	:	DECISION ON REQUEST
Matasi et al.	:	FOR
Issue Date: October 6, 2009	:	RECONSIDERATION OF
Application No. 11/301,672	:	PATENT TERM ADJUSTMENT
Filed: December 13, 2005	:	and
Atty Docket No. CN06202-01US02	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on November 16, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by six hundred twenty-two (622) 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 twenty-two (622) days is **GRANTED**.

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

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **six hundred twenty-two (622)** 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 : 7,598,259 B2

DATED : **October 6, 2009** **DRAFT**

INVENTOR(S) : Matasi 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 429 days

Delete the phrase "by 429 days" and insert – by 622 days--

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/301,699	12/12/2005	Alexander V. Reshetov	ITL.1849US (P20386)	2208

47795 7590 02/17/2012
TROP, PRUNER & HU, P.C.
1616 S. VOSS RD., SUITE 750
HOUSTON, TX 77057-2631

EXAMINER
AMINI, JAVID A

ART UNIT	PAPER NUMBER
2628	

MAIL DATE	DELIVERY MODE
02/17/2012	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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TROP, PRUNER & HU, P.C.
1616 S. VOSS RD., SUITE 750
HOUSTON TX 77057-2631

In re Application of RESHETOV, ALEXANDER V. et al. Application No. 11/301,699 Filed: December 12, 2005 For: **METHOD AND APPARATUS FOR BINARY IMAGE CLASSIFICATION AND SEGMENTATION**	DECISION ON PETITION

This is a decision on the petition filed December 28, 2011, pursuant to 37 CFR § 1.181, requesting to designate a new ground of rejection stemming from Examiner's Answer dated August 23, 2011.

PERTINENT BACKGROUND

A final Office action was issued on February 14, 2011 rejecting claims 5-11, 13-15, 18, and 20. Claims 7-9, 11, 18 and 20 were rejected under 35 USC 112, 2nd paragraph for indefiniteness; claims 5-11, 13-15, 18 and 20 were rejected under 35 USC 112, 1st paragraph for lack of enablement; claims 5-11, 13-15 and 18 were rejected under 35 USC 101 for encompassing ineligible subject matter; claims 5, 18 and 20 were rejected under 35 USC 103 as obvious with respect to the combination of two non-patent literature publications designated as Erick and Arvo, respectively; claims 6-9 were rejected under 35 USC 103 as obvious with respect to the combination of Erick and Arvo, and further in view of the non-patent literature publication designated as Levoy; claims 10, 11, 13 and 15 were rejected under 35 USC 103 as obvious with respect to the combination of Erick, Arvo and Levoy, and further in view of the non-patent literature publication designated as Alex.

A Notice of Appeal was filed April 12, 2011 and an Appeal Brief was filed June 9, 2011.

An Examiner's Answer was issued on August 23, 2011. On page 4 of the Answer, the examiner explicitly withdrew the rejection of claims 5-11, 13-15 and 18 under 35 USC 101and claims 7-9, 11, 18 and 20 under 35 USC 112, 2nd paragraph. The remaining rejections are maintained in the Answer without significant changes. Apparently due to a typographical error page 13of the Examiner's answer indicates that a new ground of rejection is set forth.

On October 19, 2011, Petitioner filed a Request to Reopen Prosecution.

Petitioner seeks relief by filing a petition December 28, 2011under 37 CFR 1.181 requesting to designate a new ground of rejection stemming from Examiner's Answer dated August 23, 2011. Petitioner alleges:

"In the Examiner's answer on page 13, he indicates that the Examiner's answer contains a new ground of rejection set forth in paragraph 9 above (see page 13, paragraph 3). The applicant elected to reopen prosecution as offered by the Examiner in the Examiner answer. Then the Examiner refused to enter the amendment arguing there was no new grounds of rejection in the answer."

REGULATIONS AND PRACTICE

MPEP 1201 states:

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

MPEP 1207.03 states in part, under part III. SITUATIONS THAT ARE NOT CONSIDERED AS NEW GROUNDS OF REJECTION<

"*There is no new ground of rejection when the basic thrust of the rejection remains the same such that an appellant has been given a fair opportunity to react to the rejection. See In re Kronig, 539 F.2d 1300, 1302-03, 190 USPQ 425, 426-27 (CCPA 1976). Where the statutory basis for the rejection remains the same, and the evidence relied upon.*

OPINION

Since no new ground of rejection was actually presented in the Examiner's Answer, the petition requesting that grounds of rejection set forth in Examiner's Answer on Appeal be designated as a new ground is **DENIED**.

Any request for reconsideration must be filed within two months form the date of this decision. The application is being forwarded to the Board of Patent Appeal and Interferences for decision on the Appeal.

Any inquiry regarding this decision should be directed to Daniel Swerdlow, Quality Assurance Specialist, at (571) 272-7531.

Tariq Hafiz, Director
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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HUSCH BLACKWELL SANDERS, LLP
HUSCH BLACKWELL SANDERS LLP WELSH & KATZ
120 S RIVERSIDE PLAZA
22ND FLOOR
CHICAGO IL 60606

MAILED

SEP 23 2010

OFFICE OF PETITIONS

In re Application of	:	
Satoshi Seo, et al.	:	
Application No. 11/301,706	:	DECISION GRANTING PETITION
Filed: December 12, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 0553-0474	:	

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on August 26, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries 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 2629 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment and 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.

INTELLECTUAL PROPERTY DEPARTMENT
AMYLIN PHARMACEUTICALS, INC.
9360 TOWNE CENTRE DRIVE
SAN DIEGO CA 92121

MAILED

OCT 15 2010

OFFICE OF PETITIONS

In re Patent No. 7,723,471	: DECISION ON REQUEST
Levy et al.	: FOR
Issue Date: 05/25/2010	: RECONSIDERATION OF
Application Number: 11/301,744	: PATENT TERM ADJUSTMENT
Filing or 371(c) Date: 12/12/2005	: and
Atty Docket No.	: NOTICE OF INTENT TO ISSUE
0406-CIP-0	: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on July 26, 2010, which is being treated as a renewed petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by seven hundred fifty-five (755) days. The petition is treated as a petition requesting that the term of the above-identified patent is extended or adjusted by six hundred ninety-five (695) 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 ninety-five (695) days is **GRANTED to the extent indicated herein**.

Petitioner asserts that a period of reduction for applicant delay of 38 days was removed by the decision mailed on April 14, 2010, but that the 38 day period of reduction is still reflected in the revised patent term adjustment determination.

Petitioner is correct, to a point. 37 CFR 1.703(f) states, in pertinent part, however, that the term of a patent entitled to adjustment under § 1.702 and this section shall be adjusted for the sum of the periods calculated under paragraphs (a) through (e) of this section, *to the extent that such periods are not overlapping*. The 22 day and 38 day periods of Office delay overlap with the 529 day period of "B" delay. Accordingly, the non-overlapping period of "B" delay is 469 (529 – 60 (22 + 38) days.

The patent term adjustment calculation is updated to 695 days (358 (298 + 22 + 38) days of Office delay + 529 days three years delay – 60 (38+22) overlapping days – 132 (92 + 40) 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. See 37 CFR 1.323(a)(4).

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

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

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by six hundred ninety-five **(695)** days.

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

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,723,471 B2

DATED : **May 25, 2010** **DRAFT**

INVENTOR(S) : Levy 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 657 days.

Delete the phrase "by 657 days" and insert – by 695 days--

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MAILED
JUN 21 2011
OFFICE OF PETITIONS

STEPHEN GEORGE MICAN
Post Office Box 803338
#8973
Chicago IL 60680-3338

In re Patent No. 7,669,325	:	
Issue Date: March 2, 2010	:	
Application No. 11/301,886	:	ON PETITION
Filed: December 13, 2005	:	
Attorney Docket No. PA-0000592-SUL-US	:	

This is a decision on the petition filed March 18, 2010, which will be treated as a request under 37 CFR 3.81(b) to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **DISMISSED**.

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(h) of this chapter.

The request under 37 CFR 3.81(b) was not accompanied by the required fee of $130. Petitioner has failed to comply with the provisions of 37 CFR 3.81(b), the request cannot be granted at this time.

Further correspondence with respect to this matter should be 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 related to this decision should be directed to the Kimberly Inabinet at (571) 272-4618.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW Mar-11

MAILED
MAR 25 2011
OFFICE OF PETITIONS

MOTOROLA, INC.
PATENT OPERATIONS LAW DEPARTMENT
600 NORTH US HIGHWAY 45
IL93-W2-55BB
LIBERTYVILLE IL 60048-5343

In re Application of	:	
Stone et al.	:	
Application Number: 11/301,925	:	ON PETITION
Filing Date: 12/13/2005	:	
Attorney Docket Number:	:	
BCS03958	:	

This is a decision in response to the petition under 37 CFR 1.137(b) filed on February 3, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned on July 12, 2010, for failure to timely submit a proper reply to the Notice of Appeal mailed on May 11, 2010, which set a two (2) month shortened 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 January 21, 2011.

Receipt of the appeal brief filed on February 3, 2011 is acknowledged.

The address in the petition is different than the correspondence address. 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 referred to Technology Center Art Unit 2163 for further processing.

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Cc:

STEWARD M. WIENER
101 TOURAMENT DR
HORSHAM PA 19044

UNITED STATES PATENT AND TRADEMARK OFFICE

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GRAYBEAL JACKSON LLP
400 - 108TH AVENUE NE
SUITE 700
BELLEVUE, WA 98004

MAILED
MAR 09 2011
OFFICE OF PETITIONS

In re Application of :
Lambert Darryl Berry, et al. :
Application No. 11/302,179 :
Filed: December 12, 2005 :
Attorney Docket No. 2332-003-03 :

ON PETITION

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

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of November 28, 2008. A Notice of Abandonment was mailed on June 2, 2009. On December 14,2010, the present petition was filed.

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. However, in accordance with 37 CFR 1.34(a), the signature of Ned A. Isralsen 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. A courtesy copy of this decision is being mailed to petitioner. However, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

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

[1] 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. While the statement is not made by an attorney of record, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

The application is being referred to Technology Center AU 1797 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: NED A. ISRAELSEN
NED A. ISRAELSEN – KNOBBE MARTENS
12790 EL CAMINO REAL
SAN DIEGO, CA 92130

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : **11/07/11**

TO SPE OF : ART UNIT: **2618 Attn: URBAN EDWARD F (SPE)**

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/302263 Patent No.: 7949377

CofC mailroom date: 10/30/2011

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 Drawings, Specifications & Claims for the requested corrections

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.

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

Comments: _____

EDWARD F. URBAN
SUPERVISORY PATENT EXAMINER

2618

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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August 31, 2011

ROYLANCE, ABRAMS, BERDO & GOODMAN, L.L.P.
1300 19TH STREET, N.W.
SUITE 600
WASHINGTON, DC 20036

Re Application of
CHAE, YOUNG-MIN, ET Al
Application: **11/302362**
Filed: **12/14/2005**
Attorney Docket No: **50150**

: **DECISION ON PETITION**
: **ACCEPTANCE OF COLOR**
: **DRAWINGS**

This is a decision on the Renewal of Petition to Accept Color Drawings under 37 C.F.R 1.84 (a) (2), received in the United States Patent and Trademark Office (USPTO) March 24, 2006.

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

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

   "The file of this patent contains at least one drawing executed in color. Copies of this patent with color drawing(s) will be provided by the Patent and Trademark Office upon request and payment of the necessary fee."

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

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

/Bernadette Queen/
Quality Control Specialist
Office of Data Management
Publications Branch

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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MINNEAPOLIS MN 55440-1022

MAILED
SEP 19 2011
OFFICE OF PETITIONS

In re Patent No. 7,971,137	: DECISION ON
Jindal, et al.	: REQUEST FOR RECONSIDERATION
Application No. 11/302,495	: of PATENT TERM ADJUSTMENT
Issue Date: June 28, 2011	:
Filed: December 14, 2005	:
Attorney Docket No. 16113-0671001	:

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(d)", filed August 29, 2011, requesting that the patent term adjustment indicated on the above-identified patent be corrected from one thousand one hundred sixty-nine (1169) days to one thousand two hundred ninety-five (1295) days.

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

On June 28, 2011, the instant application matured into U.S. Patent No. 7,971,137 with a patent term adjustment of one thousand one hundred sixty-nine (1169) days. The Office determined a patent term adjustment of 1169 days based upon 887 days of "A" delay plus 581 days of "B" delay, reduced by 218 days of overlap between "A" and "B" delay and 81 days of Applicant delay.

Patentee argues that even though he filed an RCE on July 19, 2010, he should be awarded 37 CFR 1.703(b) "over three year" delay from the time the Office mailed a Notice of Allowance on February 23, 2011 until the issue date of the patent. In other words, Patentee argue that no continued examination took place during this time period, and the Office should be accorded 133

additional days of delay pursuant to 37 CFR 1.703(b). Patentee's argument has been considered, but is not persuasive.

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 581 days based on the application having been filed under 35 U.S.C. 111(a) on December 14, 2005, and a request for continued examination under 132(b) having been filed on July 19, 2010. In other words, the 126 day period beginning on the date of mailing of the notice of allowance on February 23, 2011 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

---

[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.

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), 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.

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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.

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 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 July 19, 2010, and the patent issued by virtue of that request on June 28, 2011. Pursuant to 35 U.S.C. 154(b)(1)(B)(i), the period beginning on July 19, 2010 and ending on June 28, 2011 is not included in calculating Office delay.

CONCLUSION

In view thereof, it is concluded that the patent term adjustment of 1169 days indicated on the patent is correct.

---

[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.

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MICHAEL B. MARTIN
PATENT AND LICENSING DEPARTMENT
NALCO COMPANY
1601 WEST DIEHL ROAD
NAPERVILLE IL 60563-1198

MAILED

DEC 30 2010

OFFICE OF PETITIONS

In re Application of	:	
Sergey M. SHEVCHENKO, et al	:	
Application No. 11/302,862	:	DECISION ON PETITION
Filed: December 14, 2005	:	
Attorney Docket No. 7838	:	

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

The petition is **GRANTED**.

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

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

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

This application is being referred to Technology Center AU 1741 for appropriate action by the Examiner in the normal course of business.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 9/13/10 **Paper No.:** —

TO SPE OF : ART UNIT 1786

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/303005 Patent No.: 7,686,840 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: Approved

/D. Lawrence Tarazano/ 1786

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 9/13/10 **Paper No.:** —

TO SPE OF : ART UNIT 1786

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/303005 Patent No.: 7,686,840 B2

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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: "zink" should be "zinc"

/D. Lawrence Tarazano/ 1786

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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FISH & RICHARDSON P.C.
PO BOX 1022
MINNEAPOLIS MN 55440-1022

MAILED
MAR 13 2012
OFFICE OF PETITIONS

In re Patent No. 8,086,253	:	
Kalamkar et al.	:	DECISION ON
Issue Date: December 27, 2011	:	REQUEST FOR
Application No. 11/303,034	:	RECONSIDERATION OF
Filed: December 15, 2005	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 16113-0072001	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR § 1.705(d)," filed February 23, 2012, requesting that the patent term adjustment determination for the above-identified patent be changed from three hundred and twenty-five (325) days to four hundred and fifty-one (451) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by three hundred and twenty-seven (327) days is **GRANTED to the extent indicated herein.**

BACKGROUND

On December 27, 2011, the above-identified application matured into US Patent No. 8,086,253 with a patent term adjustment of 325 days. This request for reconsideration of patent term adjustment was timely filed within two months of the issue date of the patent. See 37 C.F.R. § 1.705(d).

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

Patentee disputes two calculations:

1. Patentee asserts that one reduction was made for an improper number of days, and;

2. Patentee agrees that the over three-year period stops with the filing of a RCE, but argues that the three-year period should restart with the mailing of a notice of allowance.

Regarding the first calculation that is in dispute:

Patentee disputes the period of reduction of 93 day entered for applicant delay, pursuant to 35 U.S.C. § 154(b)(2)(C) and 37 CFR 1.704(b), and asserts that this reduction should total 91 days. The Office agrees. Accordingly, the period of reduction of 93 days is being removed and a reduction of 91 days is being entered.

Regarding the second calculation that is in dispute: whether the over three-year period that has ceased with the filing of a RCE should restart upon the mailing of a notice of allowance:

RELEVANT STATUTE AND REGULATIONS

The statutory basis for calculation of "B delay" is 35 U.S.C. 154(b)(1)(B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY, which provides that:

Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including –

> (i) any time consumed by continued examination of the application requested by the applicant under section 132(b);
> (ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or
> (iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued.

The implementing regulation, 37 C.F.R. § 1.702(b) provides that:

> Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national

stage commenced under 35 U.S.C. 371(b) or (f) in an international application, but not including:

(1) Any time consumed by continued examination of the application under 35 U.S.C. 132(b);
(2) Any time consumed by an interference proceeding under 35 U.S.C. 135(a);
(3) Any time consumed by the imposition of a secrecy order under 35 U.S.C. 181;
(4) Any time consumed by review by the Board of Patent Appeals and Interferences or a Federal court; or
(5) Any delay in the processing of the application by the Office that was requested by the applicant.

OPINION

At issue is the period not included in the B-delay for "any time consumed by continued examination of the application requested by the applicant under section 132(b)." See U.S.C. 154(b)(1)(B)(i). **The Office maintains that the entire period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period.** As such, the over three-year period begins on December 16, 2008 and ends on September 22, 2009, the day before the first RCE was filed, which amounts to 136 days.

Patentee argues that the 123-day[1] period between the mailing of the notice of allowance on August 26, 2011 and the issuance of the patent on December 27, 2011 should be included in the period of B-delay, as this time "was not 'consumed by continued examination of the application.'"[2] As such, Patentee argues that the over three-year period begins on December 16, 2008, pauses on September 23, 2009 (the day of the filing of the RCE), restarts on August 26, 2011 with the mailing of the notice of allowance, and ends on December 27, 2011 with the issuance of the patent.

Patentee's argument has been considered, but not found persuasive. Counting the period of time excluded from the "B delay" for the filing of a request for continued examination under 35 U.S.C. 132(b), from the date on which the request for continued examination is filed to the date the patent is issued is proper. Patentee does not dispute that time consumed by continued examination of an application under 35 U.S.C. 132(b) is properly excluded and that the calculation of the excluded

[1] Patentee has miscalculated this period to constitute 124 days.
[2] Petition, page 3.

period begins on the date of filing of the request for continued examination. At issue is what further processing or examination beyond the date of filing of the request for continued examination is time consumed by continued examination of the application under 35 U.S.C. 132(b). The USPTO indicated in September of 2000 in the final rule to implement the patent term adjustment provisions of the AIPA that once a request for continued examination under 35 U.S.C. 132(b) and 37 CFR 1.114 is filed in an application, any further processing or examination of the application, including granting of a patent, is by virtue of the continued examination given to the application under 35 U.S.C. 132(b) and CFR 1.114. See Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term, 65 Fed. Reg. 56365, 56376 (Sept. 18, 2000) (response to comment 8). Thus, the excluded period begins with the filing of the request for continued examination and ends with the issuance of the patent.

Patentee's argument that the period of time after the issuance of a notice of allowance on a request for continued examination is not "any time consumed by continued examination"[3] 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

[3] Id.

issue a patent within 3 years after the actual filing date of the application in the United States," meaning that the condition must first occur that the issuance of an original patent (35 U.S.C. 153), not merely the issuance of a notice of allowance, is delayed due to the Office's failure to issue a patent (sign and record a patent grant in the name of the United States), not merely mail a notice of allowance, within 3 years after the actual filing date of the application in the United States. This provision gives the Office a three-year period to issue a patent (sign and record a patent grant in the name of the United States) after the application filing date before an adjustment will accrue for "B delay."

Third, "not including- (i) any time consumed by continued examination of the application requested by the applicant under section 132(b); (ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or (iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), meaning that the three-year period does not include "any time consumed by" or "any delay in processing," as specified in clauses (i)-(iii). This language correlates to 35 U.S.C. 154(b)(1)(A) which likewise provides the basis for determining the period given the Office to take the specified actions before an adjustment will accrue for "A delay" (e.g., extended for 1 day after the day after the period specified in clauses (i)-(iv)).

Furthermore, these clauses are interpreted using their ordinary meanings. Nonetheless, the context of the legislation should be considered. As stated in Wyeth v. Dudas, No. 07-1492, 580 F.Supp.2d 138 (D.D.C., September 30, 2008), because the clock for calculating the 20-year patent term begins to run on the filing date, and not on the day the patent is actually granted, some of the effective term of a patent is consumed by the time it takes to prosecute the application. To mitigate this effect, the statute, *inter alia*, grants adjustments of patent term whenever the patent prosecution takes more than three years, regardless of the reason. The time consumed by prosecution of the application includes every day the application is pending before the Office from the actual filing date of the application in the United States until the date of issuance of the patent. The time it takes to prosecute the application ends not with the

mailing of the notice of allowance, but with the issuance of the patent.

Thus, not including "any time consumed by" means not including any days used to prosecute the application as specified in clauses (i)-(ii)[4]. Clause (i) specifies "any time consumed by continued examination of the application requested by the applicant under section 132(b)." Clause (ii) specifies "any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court." "Time" in the context of this legislation throughout refers to days. "Consumed by" means used by or used in the course of. *Websters Collegiate Dictionary*, (11th ed.). The "any" signifies that the days consumed by are "any" of the days in the pendency of the application, and not just days that occur after the application has been pending for 3 years. As such, "any time consumed by" refers to any days used in the course of 1) continued examination of the application under section 132(b) (the filing of a request for continued examination), 2) interference proceedings, 3) secrecy orders, and 4) appellate review. Thus, that 3-year period given to the Office to issue a patent before an adjustment will accrue for "B delay" does not include any days used in the course of or any time consumed by clauses (i)-(ii), including any time consumed by the filing of a request for continued examination.

Fourth, "the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued" meaning that the consequence of this failure is that after "the end of that 3-year period" an additional 1 day of patent term will accrue for each day that the application is pending until the day the patent is issued.

The "time consumed by" or used in the course of the continued examination of the application requested by the applicant under

[4] 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.

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[5] 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

[5] 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.

consequence of the filing of the request for continued examination. Further action by the Office is pursuant to that request. Applicant has gotten further prosecution of the application without having to file a continuing application under 37 CFR 1.53(b).

All of the continued examination pursuant to the filing of the request by the applicant is properly excluded from the delay attributed to the Office. 35 U.S.C. 154(b)(1)(B)'s guarantee of a total application pendency of no more than three years provides for adjustment of the patent term for delay due to the Office's failure to issue the patent within three years, but does not include "any time consumed by continued examination requested by the applicant under 35 U.S.C. 132(b)." It is not necessary to mitigate the effect on the 20-year term to the extent that applicant has requested that the Office continue to examine the application via a request for continued examination, in lieu of, the filing of a continuing application under 37 CFR 1.53(b).

It follows that the patent term adjustment totals 327 (400 examination delay plus 126 B delay minus zero overlap minus 209 applicant delay) days.

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

Any subsequent filing pertaining to this matter should indicate that the attorney handling this matter is Paul Shanoski, and may be submitted by mail,[6] hand-delivery,[7] or facsimile.[8] Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web.[9]

---

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

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

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **three hundred and twenty-seven (327) days**.

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

Paul Shanoski
Senior Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 8,086,253 B1

DATED : **December 27, 2011** **DRAFT**

INVENTOR(S) : Kalamkar 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 325 days

Delete the phrase "by 325 days" and insert – by 327 days--

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

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

MAILED

JAN 3 1 2011

OFFICE OF PETITIONS

In re Application of	:	
MACHIN, et al	:	
Application No. 11/303,041	:	DECISION ON PETITION
Filed: December 15, 2005	:	
Attorney Docket No. F-44	:	

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

The petition is **GRANTED.**

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, February 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 May 12, 2009. A Notice of Abandonment was mailed October 8, 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) the required statement of unintentional delay.

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

This application is being referred to Technology Center AU 2629 for appropriate action by the Examiner in the normal course of business.

/Diane C. Goodwyn/
Diane C. Goodwy
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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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

MAILED

APR 08 2011

OFFICE OF PETITIONS

In re Application of	:	
XU, et al	:	
Application No. 11/303,047	:	DECISION ON PETITION
Filed: December 14, 2005	:	TO WITHDRAW
Attorney Docket No. BOBJ-078/00US 304661-2165	:	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

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K&L GATES LLP
P.O. BOX 1135
CHICAGO IL 60690

MAILED
AUG 25 2010
OFFICE OF PETITIONS

In re application of :
Chang Ho Suh :
Application No. 11/303,144 :
Filed: December 16, 2005 :
Attorney Docket No. 3713362.00015 :

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 on May 27, 2010.

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

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

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

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

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MERCHANT & GOULD (MICROSOFT)
P.O. BOX 2903
MINNEAPOLIS MN 55402-0903

MAILED

DEC 30 2010

OFFICE OF PETITIONS

In re Application of
David R. Chicks, et al.
Application No. 11/303,201
Filed: December 15, 2005
Attorney Docket No. 14917.311US01

DECISION GRANTING PETITION
UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, December 29, 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 December 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 Terri Johnson at (571) 272-2991.

This application is being referred to Technology Center AU 3685 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/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
Alexandria, VA 22313-1450
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AUG 02 2010

OFFICE OF PETITIONS

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

In re Application of
Paul D. Cork, et al.
Application No. 11/303,249
Filed: December 15, 2005
Attorney Docket No. 44755.305 / 01-0036-US-6

ON PETITION

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 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 3, 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). 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 February 9, 2010.

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

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

In view of the above, the petition is **GRANTED** *nunc pro tunc*.

The Technology Center was without authority to act further in the case absent a grantable petition reviving this application after abandonment. Nevertheless, in view of this decision on petition the RCE is now considered a proper filing and the actions of the Technology Center taken thereafter are hereby ratified.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1110 extension of time fee submitted with the RCE on may 20, 2010 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) 272-1642. 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 3735 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.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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June 27, 2011

Patent No. : 7,807,342 B2
Appl. No. : 11/303,301
Inventor(s) : Hang Yip Liu, et al.
Issued : October 5, 2010
Title : **TRANSMISSION MASK WITH DIFFERENTIAL ATTENUATION TO IMPROVE ISO-DENSE PROXIMITY**
Docket No. : **10808/292**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule 1.323.

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

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

All petitions for correction of Assignees' names under rule 3.81(b) should:

(A) state that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent;

(B) include a request for a certificate of correction under 37 CFR 1.323 along with the fee set forth in 37 CFR 1.20(a); (unless fee (currently $100) was previously paid for consideration of request for certificate of correction)

(C) include the processing fee set forth in 37 CFR 1.17(i).

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

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

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314
(Hours of operation are 8:30 a.m. to midnight, Eastern Standard Time, Monday through Friday)

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

Antonio Johnson
For Mary F. Diggs
Decisions & Certificates
of Correction Branch
(571)272-0483

BRINKS HOFER GILSON & LIONE/INFINEON
INFINEON
PO BOX 10395
CHICAGO IL 60610

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BRINKS HOFER GILSON & LIONE/INFINEON
INFINEON
PO BOX 10395
CHICAGO, IL 60610

MAILED
OCT 03 2011
OFFICE OF PETITIONS

In re Patent of Liu et al.	:	
Patent No. 7,807,342	:	
Issue Date: October 5, 2010	:	Letter
Application No. 11/303,301	:	
Filing Date: December 16, 2005	:	
Attorney Docket No. 10808-292	:	

This is a decision in response to the "Request Under 3.81(B)" filed September 13, 2011, which is being treated as a request under 37 CFR 3.81(b) to accept the correction of the assignee data on the front page of the above-identified patent.

The request is **dismissed**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are NOT permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 3.81(b)." This is not final agency action within the meaning of 5 U.S.C. § 704.

A request for a certificate of correction to add "United Microelectronics Co., Hsinchu City, (TW)" as an assignee was filed June 17, 2011.

The Office issued a letter denying the request for the certificate of correction on June 27, 2011. The letter stated a request under 37 CFR 3.81(b) must be granted in order for the Office to issue the certificate of correction. 37 CFR 3.81(b) states, with emphasis added,

> 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 June 27, 2011 letter stated petitions under 37 CFR 3.81(b) must "state that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent."

The instant request was filed September 13, 2011.

The request does not establish an assignment of any rights in the application to United Microelectronics Co. ("United") was recorded prior to issuance of the patent. In fact, the request does not even state an assignment of any rights to United has ever been recorded. Therefore, the request must be dismissed.

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

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

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

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

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

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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www.uspto.gov

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DEC 14 2011
OFFICE OF PETITIONS

BRINKS HOFER GILSON & LIONE/INFINEON
INFINEON
PO BOX 10395
CHICAGO, IL 60610

In re Patent of Liu et al.	:	
Patent No. 7,807,342	:	
Issue Date: October 5, 2010	:	Letter
Application No. 11/303,301	:	
Filing Date: December 16, 2005	:	
Attorney Docket No. 10808-292	:	

This is a letter in response to the a request under 37 CFR 3.81 filed October 31, 2011, to accept the correction of the assignee data on the front page of the patent.

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

Pursuant to 37 CFR 3.81(b), a request to have a patent corrected to add, or change, an assignee's name must:

1. State an assignment to the assignee was recorded before issuance of the patent,
2. Include a request for a certificate of correction and the fee set forth in 37 CFR 1.20(a), and
3. Include the fee set forth in 37 CFR 1.17(i).

The requirements set forth above have been met and the petition is granted.

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

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 01/30/12

TO SPE OF : ART UNIT 1795

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/303,505 Patent No.: 7569297

CofC mailroom date: 08/25/11

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Note: Should the changes be made?

RoChaun Hardwick
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: _____

_____

_____

SPE 1726 Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 1-6-11

TO SPE OF : ART UNIT 3744

SUBJECT : Request for Certificate of Correction for Appl. No.: 11303517 Patent No.: 7472070

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (C of C)
Randolph Square – 9D10-E
Palm Location 7580

Omega Lewis
Certificates of Correction Branch

703-756-1575

Thank You For Your Assistance

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

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

Comments: _____

SPE

3744
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED
DEC 07 2010
OFFICE OF PETITIONS

QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO CA 92121

In re Application of	:	
Haohong Wang et al.	:	
Application No. 11/303,617	:	DECISION ON PETITION
Filed: December 15, 2005	:	
Attorney Docket No. 051107	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 2, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice of File Corrected Application Papers, mailed August 17, 2010. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on October 18, 2010. A Notice of Abandonment was mailed on 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 replacement drawings, (2) the petition fee of $1,620, (3) a proper statement of unintentional delay. Accordingly the replacement claims 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 Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

MAILED
NOV 03 2010
OFFICE OF PETITIONS

In re Application of	:	
Hun-Joo Lee et al	:	
Application No. 11/303,673	:	ON PETITION
Filed: December 16, 2005	:	
Attorney Docket No. YPL0198US	:	

This is a decision on the petition under 37 CFR 1.137(a), 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 nonfinal Office action mailed September 8, 2009. A Notice of Abandonment was mailed on April 7, 2010.

The petition satisfies the requirements of 37 CFR 1.137(a) in that petitioner has supplied (1) the required reply in the form of an amendment; (2) the petition fee of $540.00; and (3) a showing to the satisfaction of the Director that the entire delay was unavoidable.

This application is being referred to Technology Center AU 1795 for appropriate action by the Examiner in the normal course of business on the reply received July 28, 2010.

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

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

MAILED

AUG 30 2010

OFFICE OF PETITIONS

In re Application of	:	
Rajath KEDILAYA et al.	:	
Application No. 11/303,921	:	
Filed: December 19, 2005	:	NOTICE UNDER 37 CFR. 1.28(c)
Patent No. 7,248,099	:	
Issued: July 24, 2007	:	
Attorney Docket No. 078134-0120	:	

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

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

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

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

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

Thurman K. Page
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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Kilpatrick Townsend & Stockton/Qualcomm
Two Embarcadero Center
8th Floor
San Francisco CA 94111-3834

MAILED
JAN 19 2012
OFFICE OF PETITIONS

In re Application of :
Hildreth et al. :
Application No. 11/304000 :
Filing or 371(c) Date: 12/19/2005 :
Pat. Num.: 7421093 :
Issue Date: 09/02/2008 :
Attorney Docket Number: :
112955C1 (822598) :

ON PETITION

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

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

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

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

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

/DLW/

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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KILPATRICK TOWNSEND & STOCKTON LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

MAILED
JAN 03 2012
OFFICE OF PETITIONS

In re Application of	:	
David R. PHILLIPS et al.	:	
Application No. 11/304,054	:	NOTICE UNDER 37 CFR. 1.28(c)
Pat. No. 7,358,091	:	
Filed: December 14, 2005	:	
Attorney Docket No. **022104-001320US**		

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

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

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

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.

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 itemization must be provided within one (1) month from the date of this decision to avoid the return of the deficiency.

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

Thurman K. Page
Petitions Examiner
Office of Petitions

Cc: **DENNEMEYER & CO LTD**
REGENT HOUSE, HEATON LANE
STOCKPORT, CHESHIRE
ENGL,AND SK4 1BB

UNITED STATES 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. 7063033
Issue Date: June 20,2006
Application No. 11304111
Filed: December 15,2005
Attorney Docket No. J002-103

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

This is a decision on the electronic petition, filed September 20,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of September 20,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7063033	2006-06-20	11/304,111	2005-12-15	

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

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

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/christopher j mcgeehan/	Date (YYYY-MM-DD)	2010-09-20
Name	Christopher J. McGeehan	Registration Number	56001

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/304,161	12/14/2005	James J. Shumaker	WWI-00001	5173

30853 7590 09/23/2010
WARN PARTNERS, P.C.
PO BOX 70098
ROCHESTER HILLS, MI 48307

EXAMINER
LE, HUYEN D

ART UNIT	PAPER NUMBER
3751	

MAIL DATE	DELIVERY MODE
09/23/2010	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

WARN PARTNERS, P.C.
PO BOX 70098
ROCHESTER HILLS MI 48307

In re Application of:
SHUMAKER, JAMES J.
Serial No.: 11/304,161
Filed: Dec. 14, 2005
Docket: WWI-00001
Title: Toilet Ventilation Device

DECISION ON PETITION TO WITHDRAW OF FINALITY OF OFFICE ACTION

This is a decision on the petition filed on September 14, 2010 to withdraw the finality of the last Office action mailed July 27, 2010 and allow claim 18 because the examiner failed to consider the wherein clause at the end of the amended claim 18. The petition is being considered pursuant to 37 CFR § 1.181 and no fee is required for the petition.

The petition is **granted in part**.

In the petition, petitioner argues that the examiner failed to consider the added wherein clause in claim 18 in the final rejection mailed on July 27, 2010. In particular, the last two lines of the amended claim 18, the examiner did not address the limitation regarding "the axis of rotation is substantially perpendicular to the air inlet conduit". Petitioner also argues that Smith patent does not show such limitations. Therefore, petitioner request the finality of the last Office action be withdrawn and allowance of claim 18.

Applicable Statutes, Rules and MPEP

Relevant portion of MPEP is reproduced below:
MPEP 710.06 [R-3] Situations When Reply Period Is Reset or Restarted
If the error in citation or other defective Office action is called to the attention of the Office after the expiration of the period for reply, the period will not be restarted and any appropriate extension fee will be required to render a reply timely. The Office letter correcting the error will note that the time period for reply remains as set forth in the previous Office action.

37 CFR 1.181(a)(1) states: Petition may be taken to the Director: From any action or requirement of any examiner in the ex parte prosecution of an application, or in ex parte or inter

partes prosecution of a reexamination proceeding which is not subject to appeal to the Board of Patent Appeals and Interferences or to the court.

Discussion and Analysis

In the petition, petitioner argues that a complete Office action must be given to the applicant in accordance with MPEP 2143.03. Petitioner questions the completeness of the final rejection of the amended claim 18 mailed on July 27, 2010. Petitioner also complains that the examiner failed to consider and address the limitation "the axis of rotation is substantially perpendicular to the air inlet " of claim 18. Therefore, the final rejection is incomplete. A review of the final rejection does not show the examiner has addressed the wherein clause of the amended claim 18. Therefore the examiner is requested to issue a supplemental final rejection to address the limitation regarding "the axis of rotation is substantially perpendicular to the air inlet conduit". This petition is granted to the extent for issuance of a supplemental Office action.

With regard to the improper rejection of claim 18 given by the examiner, this is an appealable issue. Applying the plain language of 37 CFR 1.181(a)(1), it is clear that applicant's arguments are directed to the merits of the claims and will not affect the rejection of claims 18, 22, 32, 33, 36-43 under 35 U.S.C. 103(a) as being unpatentable over Smith (4,375,704). However, the examiner is requested to consider the applicant's arguments regarding the Smith patent when a supplemental rejection is issued. Under the circumstances, the requested allowance of claim 18 will not be granted.

Conclusion

In view of the forgoing stated facts, the request for a supplemental Office action to address the wherein clause of the amended claim 18 is granted. A supplemental Office action will be issued in due course. The request of allowance of claim 18 will not be granted because this is an appealable issue.

The application is being forwarded to the examiner via the Supervisory Patent Examiner of the Art Unit for issuance of a supplemental Office action. The mere filing of a petition will not stay any period for reply that may by running against the application, nor act as a stay of other proceedings as stated in 37CFR § 1.181(f.) 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. Any inquiry regarding this decision should be directed to Henry Yuen, Special Programs Examiner, at (571) 272-4856.

PETITION GRANTED IN PART.

Angela D. Sykes

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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MAILED

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. 11/304,233	:	TO WITHDRAW
Filed: December 15, 2005	:	FROM RECORD
Attorney Docket No. CCON002US0	:	

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 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: Margaret Anderson
106 E. 6th Street, Suite 900
Austin TX 78701

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: 112020.197 US3	
Application Number: 11/304,315	Filing Date (or 371(b) or (f) Date): 12-15-2005
Patent Number: 7,666,382	Issue Date: 02-23-2010
First Named Inventor: Eliodor G. Ghenciu	
Title: AQUEOUS CARBON NANOTUBE APPLICATOR LIQUIDS AND METHODS FOR PRODUCING APPLICATOR LIQUIDS THEREOF	

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 /Yung-Hoon Ha/	Date 8/17/2010
Name (Print/Typed) Yung-Hoon Ha	Registration Number 56,368

***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.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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P.O. Box 1450
Alexandria, Virginia 22313-1450
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WILMERHALE/BOSTON
60 STATE STREET
BOSTON, MA 02109

Mail Date: 09/13/2010

Applicant	: Eliodor G. Ghenciu	: DECISION ON REQUEST FOR
Patent Number	: 7666382	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/304,315	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/15/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **974** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/304,358	12/15/2005	Sasi K. Kumar	16857US02	6080

23446 7590 06/27/2011
MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO, IL 60661

EXAMINER
KNOLL, CLIFFORD H

ART UNIT	PAPER NUMBER
2111	

NOTIFICATION DATE	DELIVERY MODE
06/27/2011	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):

mhmpto@mcandrews-ip.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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JUN 24 2011

TECHNOLOGY CENTER 2100

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

In re Application of:	)	
Sasi K. KUMAR	)	*SUA SPONTE*
Application No. 11/304,358	)	WITHDRAWAL OF HOLDING OF
Attorney Docket No. 16857US02	)	ABANDONMENT *under 37 CFR § 1.181*
Filed: December 15, 2005	)	
For: METHOD AND SYSTEM FOR HARDWARE BASED IMPLEMENTATION OF USB 1.1 OVER A HIGH SPEED LINK	)	

A review of the application reveals that a Notice of Abandonment was mailed to the applicant on April 28, 2011. The notice incorrectly indicated that the instant application was being held abandoned in response to "the decision by the Board of Appeals and Interferences (the Board) rendered on February 23, 2011 and ***because the period for seeking court review of the decision has expired*** and there are no allowed claims".

Contrary to that indicated above, Applicant timely filed a Request for Continued Examination on April 25, 2011 that had been overlooked (note, April 23-24 are Saturday and Sunday, resp.). The Request for Continued Examination, fee transmittal, amendment and remarks are currently located in the file.

In view of these facts, the abandonment of the application was clearly in error and is hereby **VACATED**. The Office regrets any inconvenience this may have caused.

The application is being forwarded to the Supervisory Legal Instruments Examiner with instructions to **WITHDRAW** the holding of abandonment and to **ENTER** the Request for Continued Examination, amendment and remarks filed on April 25, 2011. The application will then be forwarded to the Examiner of record for prompt action on the merits.

Inquiries to this decision may be directed to Quality Assurance Specialist Brian Johnson at (571) 272-3595.

Brian L. Johnson
Quality Assurance Specialist
Technology Center 2100
Computer Architecture and Software

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : **8-26-10**

TO SPE OF : ART UNIT **2182**

SUBJECT : Request for Certificate of Correction for Appl. No.: **11304439** Patent No.: **7653776**

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: _____

T. Hafiz
SPE

2182
Art Unit

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OCT 12 2010

OFFICE OF PETITIONS

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

In re Patent of Yoo et al.	:	DECISION ON REQUEST
Patent No. 7,582,331	:	FOR RECONSIDERATION OF
Issue Date: September 1, 2009	:	PATENT TERM ADJUSTMENT
Application No. 11/304,447	:	
Filing Date: December 14, 2005	:	
Attorney Docket No. 10125-5200	:	

This decision is in response to the "Second Request for Reconsideration of Patent Term Adjustment" filed May 20, 2010, stating the correct patent term adjustment is nine hundred thirty (930) days.

The request for reconsideration of the patent term adjustment is **GRANTED**.

The patent issued September 1, 2009. The patent term adjustment indicated in the patent was 714 days.

A request for reconsideration of the patent term adjustment under 37 C.F.R. § 1.705(d) was filed October 9, 2009.

A "Request for Recalculation of Patent Term Adjustment in View of *Wyeth*" was filed February 4, 2010.

On March 1, 2010, the Office issued a decision in response to the October 9, 2009 request. The decision stated a certificate of correction would be issued indicating the term of the patent is extended or adjusted by nine hundred thirty (930) days.

On March 30, 2010, the Office issued a certificate of correction indicating the term of the patent is extended or adjusted by nine hundred thirty (930) days.

On April 21, 2010, the Office issued a decision in response to the February 1, 2010 request. The decision indicated the Office would be issuing a certificate of correction indicating the term of the patent is extended or adjusted by one thousand one hundred forty-six (1146) days.

The instant request was filed May 20, 2010, and asserts the correct number of days of patent term adjustment is 930 days.

The Office agrees the proper patent term adjustment is 930 days.

As previously noted, the Office issued a certificate of correction indicating the term of the patent is extended or adjusted by 930 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 1146 days should *not* be issued pursuant to the decision mailed April 21, 2010, because the proper patent term adjustment is 930 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

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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JAN 31 2011

OFFICE OF PETITIONS

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER LP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

In re Patent No. 7,589,771	: DECISION ON REQUEST
Issued: September 15, 2009	: FOR RECONSIDERATION
Application No. 11/304,651	: OF PATENT TERM ADJUSTMENT
Filed: December 16, 2005	: AND
Attorney Docket No. 09812.0559	: NOTICE OF INTENT TO ISSUE
	: CERTIFICATE OF CORRECTION

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT-POST GRANT" filed November 13, 2009, requesting that the patent term adjustment determination for the above-identified patent be changed from 644 days to 917 days. Applicant requests this correction in part on the basis that the Office will take in excess of three years to issue this patent and in light of the court decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. September 30, 2008).[1]

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is adjusted by nine hundred seventeen (917) days and is **GRANTED**.

The Office acknowledges the authorization to charge the $200.00 fee set forth in 37 CFR 1.18(e) to deposit account no. 06-0916.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **nine hundred seventeen (917)** days.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

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[1]Reconsidered in light of the Court of Appeals for the Federal Circuit's decision in *Wyeth v. Kappos*, 2009-1120 (Fed. Cir. 1-7-2010).

DRAFT

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,589,771 B2

DATED : September 15, 2009

INVENTOR(S) : Hajime Hosaka

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 (644) days

Delete the phrase "by 644 days" and insert – by 917 days--

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 02/02/11

TO SPE OF : ART UNIT: 2627 Attn: NGUYEN HOA T (SPE)

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/304674 Patent No.: RE40958

CofC Mailroom date: 01/24/11

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: All requested changes are approved

/ALI NEYZARI/ AU 2627 3/15/2011

/Hoa T. Nguyen/, SPE.
Art Unit 2627

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

MAILED

AUG 16 2010

OFFICE OF PETITIONS

In re Application of	:	
Laitinen, et al.	:	
Application No. 11/304,684	:	ON REQUEST FOR
Filed: December 16, 2005	:	RECONSIDERATION OF
Attorney Docket Number: 39700-671001US	:	PATENT TERM ADJUSTMENT

This is a decision on the petition under 37 CFR 1.705(b), filed May 12, 2010. Applicants believe that they should be accorded an additional PTA of 153 days. Applicant requests this correction solely on the basis that the Office will take in excess of three years to issue this patent. In addition, Applicants point out that they should have been assessed additional days of Applicant delay.

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

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

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

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

In addition, Applicants have notified the Office that they should be assessed additional days of Applicant delay pursuant to 37 CFR 1.704(c)(8). Applicants filed a reply to an Office action on July 23, 2009. Subsequently, Applicants filed an IDS on August 31, 2009 and on September 14, 2009. Applicants believe that they should be assessed additional delay of thirty-nine (39) days for the August 31, 2009 IDS, and fifty-three (53) days for the September 14, 2009 IDS. However, as the two overlap, Applicant should only be assessed fifty-three (53) days of Applicant delay pursuant to 37 CFR 1.704(c)(8).

In view thereof, the correct determination of PTA at the time of the mailing of the Notice of Allowance is **seven hundred forty-two (742) days** (796 days of PTO delay, reduced by 54 (1+53) days of Applicant delay).

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

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

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

Anthony Knight
Director
Office of Petitions

Enc: copy of PAIR screen

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

PALM INTRANET

Day : Monday
Date: 8/2/2010
Time: 07:44:45

PTA Calculations for Application: 11/304684			
Application Filing Date:	12/16/2005	PTO Delay (PTO):	796
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	1
Post-Issue Petitions:	0	Total PTA (days):	742
PTO Delay Adjustment:	-53		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
65	08/02/2010	ADJUSTMENT OF PTA CALCULATION BY PTO		53	
52	02/12/2010	MAIL NOTICE OF ALLOWANCE			
51	02/04/2010	ISSUE REVISION COMPLETED			
50	02/04/2010	DOCUMENT VERIFICATION			
49	01/26/2010	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
48	01/26/2010	NOTICE OF ALLOWABILITY			
47	01/15/2010	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
46	01/07/2010	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
45	12/29/2009	DATE FORWARDED TO EXAMINER			
44	12/24/2009	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
43	12/24/2009	REQUEST FOR CONTINUED EXAMINATION (RCE)			
42	12/29/2009	DISPOSAL FOR A RCE / CPA / R129			
41	12/24/2009	WORKFLOW - REQUEST FOR RCE - BEGIN			
40	12/23/2009	MAIL ADVISORY ACTION (PTOL - 303)			
39	12/23/2009	CASE DOCKETED TO EXAMINER IN GAU			
38	12/23/2009	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
37	12/21/2009	ADVISORY ACTION (PTOL-303)			
36	12/18/2009	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
35	12/06/2009	DATE FORWARDED TO EXAMINER			
34	11/30/2009	AMENDMENT AFTER FINAL REJECTION			
33	09/29/2009	MAIL FINAL REJECTION (PTOL - 326)			

32	09/28/2009	FINAL REJECTION			
31	09/14/2009	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
30	08/31/2009	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
29	09/14/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
28	08/31/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
27	08/30/2009	DATE FORWARDED TO EXAMINER			
26	07/23/2009	RESPONSE AFTER NON-FINAL ACTION		1	21
25	07/23/2009	REQUEST FOR EXTENSION OF TIME - GRANTED			
24	06/26/2009	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
23	06/19/2009	CORRESPONDENCE ADDRESS CHANGE			
22	05/28/2009	CASE DOCKETED TO EXAMINER IN GAU			
21	04/22/2009	MAIL NON-FINAL REJECTION	796		-1
20	04/21/2009	NON-FINAL REJECTION			
16	09/08/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
15	03/11/2009	CASE DOCKETED TO EXAMINER IN GAU			
14	10/05/2008	CASE DOCKETED TO EXAMINER IN GAU			
13	05/23/2008	PRELIMINARY AMENDMENT			
12	02/05/2008	CASE DOCKETED TO EXAMINER IN GAU			
11	11/15/2007	PRELIMINARY AMENDMENT			
10	10/17/2007	WITHDRAW FLAGGED FOR 5/25			
9	10/16/2007	FLAGGED FOR 5/25			
8.7	09/08/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
8	09/08/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
7	04/11/2006	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
6	04/11/2006	CASE DOCKETED TO EXAMINER IN GAU			
5	01/24/2006	APPLICATION DISPATCHED FROM OIPE			
4	01/25/2006	APPLICATION IS NOW COMPLETE			
3	01/05/2006	CLEARED BY OIPE CSR			
2	12/28/2005	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	12/16/2005	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA, VA 22314-1176

Mail Date: 08/02/2010

Applicant	: Weily Kuo	: DECISION ON REQUEST FOR
Patent Number	: 7650153	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/304,709	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/16/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **597** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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

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OFFICE OF PETITIONS

In re Application of
Mark J. Sefik, et al.
Application No. 11/304,793
Filed: December 16, 2005
Attorney Docket No. 111325-028300

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 10, 2010.

The request is **NOT APPROVED**.

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

The Office strongly encourages practitioner(s) requesting withdrawal from representation as practitioner of record in an application to review the record to determine whether he or she is, in fact, of record and how he or she was made of record. The practitioner(s) should determine whether he or she was appointed by naming each practitioner individually or through the use of a Customer Number. If the practitioner(s) were appointed by a specific designation, then the request should ask that each specified practitioner be withdrawn and should list each practitioner(s) in the Request. Similarly, if practitioner(s) was appointed by a Customer Number, the practitioner(s) should ensure that the correct number is provided in the Request Additionally, as set forth in MPEP 403(I), the addition or deletion of a practitioner from the list of persons associated with a Customer Number should be done by way of a *Request for Customer umber Data Change* (PTO/SB/124) and not a *Request for Withdrawal As Attorney or Agent and Change of Correspondence Address* (PTO/SB/83).

The request cannot be approved because practitioners were appointed by customer number. Practitioners must withdraw in the same manner that they were appointed. Further since the statement under 37 CFR 3.73(b) is considered improper, the request to change the correspondence address is not accepted since it does not list a proper correspondence address to forward future communication from the Office.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number). The power of attorney filed October 7, 2010 does not include a proper application number and filing date on the statement under 37 CFR 3.73(b).

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

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

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

cc: CONTENTGUARD HOLDINGS. INC
222 N. SEPULVEDA BLVD.,
SUITE 1400
EL SEGUNDO, CA 90245

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Business Objects Americas; Business Objects S.A.
SAP America, Inc.; Business Objects Software Ltd.
Business Objects Data Integration, Inc.
3580 Carmel Mountain Rd., Suite 300
San Diego CA 92130

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OFFICE OF PETITIONS

In re Application of	:	
Gregory John McClement et al.	:	
Application No. 11/304,980	:	DECISION ON PETITION
Filed: December 14, 2005	:	TO WITHDRAW
Attorney Docket No. BOBJ-061/00US 304661-2124	:	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 2, 2011.

The request is **NOT APPROVED.**

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

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

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

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

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

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BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA, VA 22314-1176

Mail Date: 08/04/2010

Applicant	: Kenichi Takase	: DECISION ON REQUEST FOR
Patent Number	: 7645810	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/305,045	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/19/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **873** 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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SUITE 2
OAKLAND CA 94618

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OFFICE OF PETITIONS

In re Application of
Martin E. HELLMAN
Application No. 11/305,097
Filed: December 16, 2005
Attorney Docket No. HELLM005

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 22, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue and publication fees on or before September 27, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed June 25, 2010, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on September 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 payment of the Issue Fee of $755 and Publication Fee of $300; (2) the petition fee of $810; and (3) the required statement of unintentional delay.

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

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

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

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One Henkel Way
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OFFICE OF PETITIONS

In re Application of
Patrick F. MCDONNELL et al.
Application No. 11/305,147
Filed: December 19, 2005
Attorney Docket No. ICC-313

DECISION ON REQUEST FOR REFUND

This is a decision on the petition under 37 CFR 1.181, filed August 28, 2009, which is being treated as a request for refund under 37 CFR 1.26(a).

The request is **DISMISSED**.

A Notice Requiring Excess Claims Fees (Notice) was mailed March 12, 2009 requiring excess claim fees of $624 for the 12 extra claims filed with the amendment of February 17, 2009. The Notice set a time period of one (1) month or thirty (30) days from the mailing date of the Notice in which to respond. On August 28, 2009, petitioner filed a response to the Notice authorizing payment of the excess claims along with an authorization to charge Deposit Account No. 01-1250 the required five (5) month extension of time fee of $2,350.

Petitioner requests a refund of the aforementioned extension of time fees on the grounds that the Notice was sent in error as the Transmittal Letter filed with the above-identified application on December 19, 2005 provides express authorization for the Commissioner to charge any excess fees to Deposit Account No. 12-2135. Petitioner additionally argues that the Notice was not received.

A review of Transmittal Letter filed with the application indicates that the Transmittal Letter authorized the charging of fees as follows: "The Commissioner is hereby authorized to charge any additional fees which may be due **in connection with this submission** or any over payment of same, to Deposit Account No. 12-2135." **[Emphasis added.]**

37 CFR 1.25(b) sets forth in part:

> Filing, issue, appeal, international-type search report, international application processing, petition, and post-issuance fees may be charged against these accounts if sufficient funds are on deposit to cover such fees. A general authorization to charge all fees, or only certain fees, set forth in §§ 1.16 to 1.18 to a deposit account containing

> sufficient funds may be filed in an individual application, either for the entire pendency of the application or with a particular paper filed.

MPEP 509.01 sets forth:

> It is extremely important that the authorization be clear and unambiguous. If applicants file authorizations which are ambiguous and deviate from the usual forms of authorizations, the Office may not interpret the authorizations in the manner applicants intend and may return the fees. As a result, applicants could be subject to further expenses, petitions, etc. in order to have a particular fee charged to a deposit account (which was not charged as intended) or to resubmit a fee(s) due to an ambiguous authorization.

MPEP 607.02 sets forth:

> Under 35 U.S.C. 42(d) and 37 CFR 1.26, the Office may refund: (1) a fee paid by mistake (e.g., fee paid when no fee is required); or (2) any fee paid in excess of the amount of fee that is required. See Ex parte Grady, 59 USPQ 276, 277 (Comm'r Pat. 1943) (the statutory authorization for the refund of fees under the "by mistake" clause is applicable only to a mistake relating to the fee payment).
>
> When an applicant or patentee takes an action "by mistake" (e.g., files an application or maintains a patent in force "by mistake"), the submission of fees required to take that action (e.g., a filing fee submitted with such application or a maintenance fee submitted for such patent) is not a "fee paid by mistake" within the meaning of 35 U.S.C. 42(d).
>
> 37 CFR 1.26(a) also provides that a change of purpose after the payment of a fee, as when a party desires to withdraw the filing of a patent application for which the fee was paid, will not entitle the party to a refund of such fee.

Unfortunately for petitioners, the fee authorization in the Transmittal Letter is only directed to "this submission" which in this instance is filing of the application. Thus, the fee authorization did not cover the payment of excess claim fees at a later time in the application. That is, the extension of time fees paid herein were owed at the time they were paid, and, as such, were not fees paid by mistake. These fees which petitioners wish to have refunded were required by 35 U.S.C. § 41 which employs the language of command in that "the Director shall charge the following fees." The payment of the statutory fees is obligatory upon applicants and collection of the statutory fee is likewise obligatory upon the Office. Boyden v. Commissioner of Patents, 441 F.2d 1041, 1043, 168 USPQ 680, 681 (D.C. Cir.), cert denied 404 US 842, 868, 171 USPQ 312 (1971); see also Giuliani v. United States, 8 USPQ2d 1095 (D. Hi 1988), aff'd mem., 878 F.2d 1444 (Fed. Cir. 1989). The USPTO had no discretion to proceed with the processing of the response to the Notice in the absence of such payment. Boyden, supra. Petitioners obtained the results for which they admittedly paid the fees: the pendency of this application was maintained. To now request a refund of those rightfully paid fees is a change in purpose after the fact, which precludes a refund. See 37 CFR 1.26(a); Grady, supra.

Clearly, the payment of the excess claim fees was the proper reply, and such was rendered timely by the accompanying 5 month extension of time and fee. This does not warrant either a finding of mistake relating to the payment, or a refund of the fees. See In re Hartman, 145 USPQ 402 (Comm'r Pat. 1965).

With respect to petitioners' argument of non-receipt of the Notice, a review of the written record indicates no irregularity in the mailing of the Notice, and, in the absence of any irregularity, there is a strong presumption that the Notice was properly mailed to the practitioner at the address of record. In any event, whether or not petitioner received the Notice is immaterial to the issue herein where petitioner filed a timely response with the required extension of time fees.

In view of the above, the request for refund is dismissed as the fees were not paid "by mistake".

Any questions concerning this matter may be directed to the undersigned at (571) 272-7099.

The application file is being referred to Technology Center AU 1762 for appropriate action on the concurrently filed response.

David Bucci
Petitions Examiner
Office of Petitions

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

Mail Date: 11/08/2010

Applicant	: Won-taek Kim	: DECISION ON REQUEST FOR
Patent Number	: 7668499	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/305,208	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/19/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **838** 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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ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON, VA 22209-3873

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OFFICE OF PETITIONS

In re Application of	:	
Hideo Arai, et al.	:	
Application No. 11/305,229	:	ON PETITION
Filed: December 19, 2005	:	
Attorney Docket No. 500.30304C17	:	

This is a decision on the petition, filed May 2, 2011, under 37 CFR 1.182 requesting withdrawal of a previously filed terminal disclaimer. The petition fee has been received.

The petition is granted.

Petitioner asserts that the Terminal Disclaimer filed on March 2, 2010 in this application is unnecessary in view of the substantial amendments made to the claims during subsequent prosecution.

As the examiner has concurred, the request can be favorably considered.

The application is being referred to Technology Center Art Unit 2627 for further processing consistent with this decision.

Telephone inquiries related to this decision may 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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McDermott Will & Emery, LLP
600 13th Street, NW
Washington, DC 20005-3096

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OFFICE OF PETITIONS

In re Application of	:	
Michael L. Cutrer, et. al.	:	
Application No. 11/305,437	:	DECISION ON PETITION
Filed: December 16, 2005	:	TO WITHDRAW FROM
Attorney Docket No. 087098-0014	:	RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR §§ 1.36(b) or 10.40 filed June 24, 2011.

The request is **NOT APPROVED**.

The Office will no longer approve requests from practitioners to withdraw from application where the requesting practitioners is acting, or has acted, in a representative capacity pursuant to 37 CFR 1.34. In these situations, the practitioner is responsible for the correspondence the practitioner files in the application while acting in a representative capacity. As such, there is no need for the practitioner to obtain the Office's permission to withdraw from representation. However, practitioners acting in a representative capacity, like practitioners who have power of attorney in the application, remain responsible for noncompliance with 37 CFR 1.56, as well as 37 CFR 10.18, with respect to the documents they file.

The Office strongly encourages practitioner(s) requesting withdrawal from representation as practitioner of record in an application to review the record to determine whether he or she is, in fact, of record and how he or she was made of record. The practitioner(s) should determine whether he or she was appointed by naming each practitioner individually or through the use of a Customer Number. If the practitioner(s) were appointed by a specific designation, then the request should ask that each specified practitioner be withdrawn and should list each practitioner(s) in the Request. Similarly, if practitioner(s) was appointed by a Customer Number, the practitioner(s) should ensure that the correct number is provided in the Request. Additionally, as set forth in MPEP 403(I), the addition or deletion of a practitioner from the list of persons associated with a Customer Number should be done by way of a *Request for Customer umber Data Change* (PTO/SB/124) and not a *Request for Withdrawal As Attorney or Agent and Change of Correspondence Address* (PTO/SB/83).

A review of the file record indicates that Marc E. Brown and the attorneys/agents associated with Customer Number 33401 do not have power of attorney in this patent application, but may have been employed or otherwise engaged in the proceedings in this patent application[1].

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

The Office will no longer change the correspondence address to that of a new practitioner unless the Request is accompanied by a power of attorney to a new practitioner (e.g., Form PTO/SB/82). However, the Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest *that properly became of record under 37 CFR 3.71,* 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.*

Therefore, as there is currently no Statement under 37 CFR 3.73(b)[2] with the current assignee information of record in the present application, and since the current address information for the first named inventor was not provided, the Office cannot change the correspondence address to the address listed in the Request to Withdraw.

There is an outstanding Office action mailed June 9, 2011, that requires a reply from the applicant.

In view of the above, all future communications from the Office will continue to be directed to the above-listed address unless otherwise notified by the applicant.

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

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Tibet Changdu Huiheng Development Co. Ltd.
Huiheng Building, GaoXin 7 Street South
Keyuannan Road, Nansan District
Shenzhen Guangdong 518057
CHINA

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[1] The Power of Attorney filed on May 26, 2006, was not accepted since it failed to comply with the requirements of 37 CFR 3.73(b).

[2] See USPTO Form No. PTO/SB/96.

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Medtronic
Attn: Noreen C. Johnson, IP Legal Department
2600 Sofamor Danek Drive
Memphis TN 38132

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OFFICE OF PETITIONS

In re Application of	:	
Steven D. DeRidder et al.	:	
Application No. 11/305,604	:	DECISION ON PETITION
Filed: December 16, 2005	:	
Attorney Docket No. 31132.392/P0021548.00	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the final Office action mailed, January 13, 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 14, 2010.

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

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

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

This application is being referred to Technology Center AU 3733 for appropriate action by the Examiner in the normal course of business on the RCE received July 14, 2010.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Gregory Webb
Haynes and Boone, LLP
2323 Victory Avenue
Suite 700
Dallas, TX 75219-767

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 09/02/10

TO SPE OF : ART UNIT 3726

SUBJECT : Request for Certificate of Correction for Appl. No.: 11305619 Patent No.: 7536767

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: _____

DAVID P. BRYANT
SUPERVISORY PATENT EXAMINER
SPE

3726
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

PROCOPIO, CORY, HARGREAVES
& SAVITCH LLP
525 B STREET
SUITE 2200
SAN DIEGO CA 92101

MAILED

SEP 2 1 2010

OFFICE OF PETITIONS

In re Application of	:	
Robert M. DAVIS	:	
Application No. 11/305,653	:	DECISION ON PETITION
Filed: December 18, 2006	:	
Docket No. 112445-060UTL	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, February 6 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on May 7, 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) and the required statement of unintentional delay.

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

This application is being referred to Technology Center AU 1797 for appropriate action by the Examiner in the normal course of business.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BRAKE HUGHES BELLERMANN LLP
C/O CPA Global
P.O. BOX 52050
MINNEAPOLIS MN 55402

MAILED
FEB 17 2011
OFFICE OF PETITIONS

In re Application of
Leidig
Application No. 11/305,769
Filed: December 16, 2005
Attorney Docket No. 0010-019001/2004P01079US

DECISION ON PETITION

This is a decision on the petition, filed December 29, 2010, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

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

Any request for reconsideration should be filed within **TWO MONTHS** of the mailing date of this decision in order to be considered timely. 37 CFR 1.181(f). This time period may not be extended pursuant to 37 CFR 1.136.

This application became abandoned for failure to timely submit corrected drawings, as required by the Notice of Allowability which was mailed September 8, 2010 and set a 3 month period for reply. Extensions of time were not available under 37 CFR §1.136(a). Accordingly, this application became abandoned on December 9, 2010. A Notice of Abandonment was mailed on December 27, 2010.

Petitioner maintains that the Notice of Allowability allowed for corrected drawings or an amendment to the specification. Petitioner contends that corrected drawings were not needed because the drawing objection was corrected and rendered moot via an examiner's amendment.

Petitioner's argument has been considered but it is not convincing to establish the holding of abandonment should be withdrawn. The Notice of Allowability clearly states that applicant was required to submit corrected drawings or an amendment to the specification within the three month period of reply to avoid abandonment. A review of the record shows that neither corrected drawings nor an amendment to the specification in response to the Notice of Allowability were filed prior to the abandonment of the application. Further review of the record shows petitioner did not file any objections to the Notice of Allowability in writing.

Accordingly, the holding of abandonment cannot be withdrawn.

If petitioners cannot supply the evidence necessary to withdraw the holding of abandonment, or simply does not wish to, petitioners 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/$810 petition fee.

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

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

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(571) 273-8300
By delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office Customer Service Window, Randolph Building 401 Dulany Street Alexandria, VA 22314

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

Charlema Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BRAKE HUGHES BELLERMANN LLP
C/O CPA GLOBAL
P.O. BOX 52050
MINNEAPOLIS, MN 55402

MAILED
JUN 03 2011
OFFICE OF PETITIONS

In re Application of	:	
Torsten Leidig	:	
Application No. 11/305,769	:	DECISION ON PETITION
Filed: December 16, 2005	:	
Attorney Docket No. 0010-019001/2004P01079US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 18, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to submit corrected formal drawings or objections in a timely manner as a response to the Notice of Allowability, mailed September 8, 2010, which set a period for reply of three (3) months. Accordingly, this application became abandoned on December 9, 2010. A Notice of Abandonment was mailed December 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 response to the Notice of Allowability, (2) the petition fee of $1,620 , and (3) a proper statement of unintentional delay.

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

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

A. Kelley-Collier

Alicia Kelley-Collier
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 09/01/10

TO SPE OF : ART UNIT 3781

SUBJECT : Request for Certificate of Correction for Appl. No.: 11305809 Patent No.: 7552841

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

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

Lamonte Newsome
Certificates of Correction Branch
703-756-1574

Thank You For Your Assistance

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

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

Comments: amendments add punctuation and correct small antecedence mistake

/Anthony Stashick/ **3781**
SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

SEP 22 2010

OFFICE OF PETITIONS

ROBERT W. FLETCHER
9720 BUNSEN PARKWAY
LOUISVILLE, KY 40299

In re Application of	:	
Jeffery Ohler	:	
Application No. 11/305,865	:	ON PETITION
Filed: December 19, 2005	:	
Attorney Docket No. Flet 05 Ohler	:	

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

The petition is **GRANTED.**

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

This matter is being referred to Technology Center AU 1792 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

MAILED

JAN 05 2011

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Harvey RAY et al. :
Application No. 11/305,902 :
Filed: December 16, 2005 :
Attorney Docket No. 5957-27401 :

This is in response to the petition under 37 CFR 1.183, filed July 22, 2010, which is being treated as petition requesting waiver of the requirements of 37 CFR 1.172.

The petition is **GRANTED.**

Petitioner has shown that the inability to again obtain the signature from the originally signing inventors Harvey Ray and Deborah Silver is, not withstanding the exercise of reasonable care and diligence, due to circumstances beyond his control. Accordingly, the declaration submitted concurrently with the instant petition will be accepted.

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

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SEP 28 2010

OFFICE OF PETITIONS

WOODCOCK WASHBURN, LLP
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA, PA 19104-2891

In re Application of	:	
Aaron J. Manuel	:	
Application No. 11/305,936	:	DECISION ON PETITION
Filed: December 19, 2005	:	TO WITHDRAW
Attorney Docket No. MANU-0002	:	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 26, 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 Barry E. Kaplan on behalf of all attorneys of record who are associated with customer No. 30184. All attorneys/agents associated with the Customer Number 30184 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 March 24, 2010 that requires a reply from the applicant.

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

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

cc: AARON J. MANUEL
502 PRYOR STREET SW
UNIT 226
ATLANTA, GA 30312

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
11/305,936	12/19/2005	Aaron J. Manuel	MANU-0002

CONFIRMATION NO. 8392

POWER OF ATTORNEY NOTICE

30184
Woodcock Washburn LLP
Cira Centre, 12th Floor
2929 Arch Street
Philadelphia, PA 19104-2891

OC000000043730451

Date Mailed: 09/27/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/26/2010.

- 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20120209

DATE : February 09, 2012

TO SPE OF : ART UNIT 2617

SUBJECT : Request for Certificate of Correction on Patent No.: 7,120,462

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:

/RAFAEL PÉREZ-GUTIÉRREZ/
Supervisory Patent Examiner.Art Unit 2617

UNITED STATES PATENT AND TRADEMARK OFFICE

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

THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP
600 GALLERIA PARKWAY, S.E.
STE 1500
ATLANTA GA 30339-5994

MAILED
MAR 03 2011
OFFICE OF PETITIONS

In re Application of :
Jiun-Hung Yu : DECISION GRANTING PETITION
Application No. 11/306,110 : UNDER 37 CFR 1.137(b)
Filed: December 16, 2005 :
Atty. Docket No.: 251812-1360 :

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to Notice of Allowance/Allowability mailed September 2, 2010 ("Allowance"), which set a statutory period for reply of three (3) months. The application thus became abandoned on December 3, 2010, and a Notice of Abandonment was mailed December 20, 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 replacement drawings and issue fee (previously paid November 30, 2010), (2) a petition fee of $1620.00, and (3) a Statement of unintentional delay. The reply to the Allowance 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 Office of Data Management.

for David Bucci
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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NOVAK DRUCE + QUIGG LLP
300 NEW JERSEY AVENUE, NW
FIFTH FLOOR
WASHINGTON DC 20001

MAILED
AUG 2 6 2010
OFFICE OF PETITIONS

In re Application of	:	
Magnus LUNDBERG	:	
Application No. 11/306,326	:	ON PETITION
Filed: December 22, 2005	:	
Attorney Docket No. 7589.304.PCUS00	:	

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance mailed January 28, 2010, which set a statutory period for reply of three (3) months. Accordingly, by operation of law, the above-identified application became abandoned on April 29, 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 and Publication Fee(s); (2) the petition fee of $1620; and (3) the required statement of unintentional delay have been received. Accordingly, the Issue and Publication Fee payment is accepted as having been unintentionally delayed.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPP 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) 272-7099.

Application No. 11/306,326

The application file is being referred to the Office of Data Management.

David Bucci
Petitions Examiner
Office of Petitions

Cc: Novak Druce + Quigg LLP
1000 Louisiana Street, Fifty-Third Floor
Houston, TX 77002

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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JOHN MARSHALL LAW SCHOOL
CENTER FOR INTELLECTUAL PROPERTY LAW
PATENT CLINICS
315 S. PLYMOUTH COURT
CHICAGO, IL 60605

MAILED

SEP 30 2010

OFFICE OF PETITIONS

In re Application of	:	
Yvonne Fitzpatrick	:	
Application No. 11/306,328	:	DECISION ON PETITION
Filed: December 22, 2005	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No.: 2664-11032005	:	

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed August 13, 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 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) and (iii) of the prior-filed application(s), unless previously submitted;[1]
> **(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.

[1] Any nonprovisional application or international application designating the United States of America claiming the benefit of one or more prior-filed copending applications or international applications designating the United States of America must contain or be amended to contain a reference (amendment to the first line of the specification following the title or in an application data sheet (ADS) 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 filing date and indicating the relationship of the applications. Cross references to other related applications may be made when appropriate (*see* § 1.14).

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(s) 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(s). In order for this application to be entitled to the benefit of the prior-filed application(s), 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(s) should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application(s) noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

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

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

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
11/306,328	12/22/2005	3689	425	2664-11032005	10	2

CONFIRMATION NO. 1327

CORRECTED FILING RECEIPT

OC000000043773447

John Marshall law School
Center for Intellectual Property Law
Patent Clinics
315 S. plymouth Court
Chicago, IL 60605

Date Mailed: 09/30/2010

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)

Yvonne Fitzpatrick, Streamwood, IL;

Power of Attorney:
Donald Moyer--38568
Miri Yoon--60950

Domestic Priority data as claimed by applicant

This application is a CIP of 09/774,807 02/01/2001

Foreign Applications

If Required, Foreign Filing License Granted: 09/13/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/306,328**

Projected Publication Date: Not Applicable

Non-Publication Request: No

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

Title

Entity-Linking System to Report the Death of a Person

Preliminary Class

705

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

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

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

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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MARK JAMES YOUNG
UNIT 202
12086 FORT CAROLINE RD.
JACKSONVILLE FL 32225

MAILED

MAY 09 2011

OFFICE OF PETITIONS

In re Application of	:	
Amy STEWART	:	
Application No. 11/306,333	:	DECISION ON PETITION
Filed: December 22, 2005	:	
Attorney Docket No. AS.001	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 24, 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 09, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed July 09, 2010. Accordingly, the date of abandonment of this application is October 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 payment of the issue fee of $755.00 and the publication fee of $300.00, (2) the petition fee of $810.00; and (3) a proper statement of unintentional delay. Accordingly, the issue and publication fee payments are accepted as being unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4231.

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

Michelle R. Eason
Paralegal Specialist
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAILED

SEP 30 2010

TECHNOLOGY CENTER 2100

Thomas Theodosios
111 Corning Road
Ste 220
Cary, North Carolina 27518

In re Application of:
Robert P. MORRIS
Appl. No.: 11/306341

Filed: December 23, 2005
For: METHODS, SYSTEMS, AND COMPUTER PROGRAM PRODUCTS FOR ASSOCIATING POLICIES WITH TUPLES USING A PUB/SUB PROTOCOL

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 July 16, 2010.

The petition is **GRANTED**.

Pursuant to applicant's request filed on July 16, 2010, action by the Office is suspended on this application under 37 CFR § 1.103(a) for a period of ***three (3) months from the mailing date of this letter***. At the end of this period, applicant is required to notify the examiner and request continuance of prosecution or a further suspension. See MPEP § 709.

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

Any inquiry concerning this decision should be directed to the undersigned (or name of the TQAS) 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
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/306,341	12/23/2005	Robert P. Morris	1341/US	1340

49277 7590 09/30/2010
SCENERA RESEARCH, LLC
5400 Trinity Road
Suite 303
Raleigh, NC 27607

EXAMINER
VERDI, KIMBLEANN C

ART UNIT	PAPER NUMBER
2194	

MAIL DATE	DELIVERY MODE
09/30/2010	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

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/306,341	12/23/2005	Robert P. Morris	1341/US	1340

49277 7590 01/06/2011
SCENERA RESEARCH, LLC
5400 Trinity Road
Suite 303
Raleigh, NC 27607

EXAMINER
VERDI, KIMBLEANN C

ART UNIT	PAPER NUMBER
2194	

MAIL DATE	DELIVERY MODE
01/06/2011	PAPER

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

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

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Commissioner for Patents
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Alexandria, VA 22313-1450
www.uspto.gov

Thomas Theodosios
SCENERA RESEARCH, LLC
5400 TRINITY ROAD
SUITE 303
RALEIGH, NC 27607

January 5, 2011

In re Application of:
Robert P. MORRIS
Appl. No.: 11/306341

Filed: December 23, 2005
For: METHODS, SYSTEMS, AND COMPUTER PROGRAM PRODUCTS FOR ASSOCIATING POLICIES WITH TUPLES USING A PUB/SUB PROTOCOL

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 July 16, 2010.

The petition is **GRANTED**.

Pursuant to applicant's request filed on July 16, 2010, action by the Office is suspended on this application under 37 CFR § 1.103(a) for a period of ***three (3) months from the mailing date of this letter***. At the end of this period, applicant is required to notify the examiner and request continuance of prosecution or a further suspension. See MPEP § 709.

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Thomas Theodosios
SCENERA RESEARCH, LLC
5400 TRINITY ROAD
SUITE 303
RALEIGH, NC 27607

July 7, 2011

In re Application of:
Robert P. MORRIS
Appl. No.: 11/306341

Filed: December 23, 2005
For: METHODS, SYSTEMS, AND COMPUTER PROGRAM PRODUCTS FOR ASSOCIATING POLICIES WITH TUPLES USING A PUB/SUB PROTOCOL

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 April 11, 2011.

The petition is **GRANTED**.

Pursuant to applicant's request filed on April 11, 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 (or name of the TQAS) 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
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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/306,341	12/23/2005	Robert P. Morris	1341/US	1340

49277 7590 10/21/2011
SCENERA RESEARCH, LLC
5400 Trinity Road
Suite 303
Raleigh, NC 27607

EXAMINER
VERDI, KIMBLEANN C

ART UNIT	PAPER NUMBER
2196	

MAIL DATE	DELIVERY MODE
10/21/2011	PAPER

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

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

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Thomas Theodosios
SCENERA RESEARCH, LLC
5400 TRINITY ROAD
SUITE 303
RALEIGH, NC 27607

October 20, 2011

In re Application of:
Robert P. MORRIS
Appl. No.: 11/306341

Filed: December 23, 2005
For: METHODS, SYSTEMS, AND COMPUTER PROGRAM PRODUCTS FOR ASSOCIATING POLICIES WITH TUPLES USING A PUB/SUB PROTOCOL

DECISION ON PETITION
UNDER 37 CFR § 1.103(a)

This is a decision on the petition for suspension of prosecution under 37 CFR § 1.103(a) filed on October 10, 2011.

The petition is **GRANTED**.

Pursuant to applicant's request filed on October 10, 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 (or name of the TQAS) whose telephone number is (571) 272-3591.

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

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UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/306,341	12/23/2005	Robert P. Morris	1341/US	1340

49277 7590 01/26/2012
SCENERA RESEARCH, LLC
5400 Trinity Road
Suite 303
Raleigh, NC 27607

EXAMINER
VERDI, KIMBLEANN C

ART UNIT	PAPER NUMBER
2196	

MAIL DATE	DELIVERY MODE
01/26/2012	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Theodosios Thomas
SCENERA RESEARCH, LLC
5400 Trinity Road
Suite 303
Raleigh, North Carolina 27607

In re Application of:
Robert P. MORRIS
Appl. No.: 11/306,341
Filed: December 23, 2005
For: METHODS, SYSTEMS, AND COMPUTER PROGRAM PRODUCTS FOR ASSOCIATING POLICIES WITH TUPLES USING A PUB/SUB PROTOCOL

DECISION ON PETITION UNDER 37 CFR § 1.103(a)

This is a decision on the petition for suspension of prosecutions under 37 CFR § 1.103(a) filed on 23 January 2012.

The petition is **GRANTED**.

Pursuant to applicant's requests filed on 23 January 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

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

MAILED
JUN 24 2011
OFFICE OF PETITIONS

ROSENBAUM & SILVERT, P.C.
1480 TECHNY ROAD
NORTHBROOK IL 60062

In re Application of	:	
Adela MORA-GUTIEREZ et al.	:	ON PETITION
Application No. 11/306,582	:	
Filed: January 3, 2006	:	
Atty. Docket No.: 6104-003		

This is a decision on the petition under 37 CFR 1.137(b), filed April 27, 2011, to revive the above-identified application.

The petition is **DISMISSED.**

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

The application went abandoned for failure to reply in a timely manner to the final Office action mailed July 27, 2009, which set a shortened statutory period for reply of three (3) months. No appropriate reply was received. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. The application became abandoned on October 28, 2009. A Notice of Abandonment was mailed on March 24, 2010.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) an appropriate reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. *See*, MPEP 711.03(c)(III)(C) and (D). The instant petition does not satisfy item (1) for the following reason: under MPEP 711.03(c)(2)(b)

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

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

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

Two terminal disclaimers (and disclaimer fees under 37 CFR 1.29(d)) were filed with the instant petition. However, the terminal disclaimers were filed to obviate a double patent rejection, as opposed to disclaiming a required period of time. Therefore, the terminal disclaimers are not addressed herein.

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

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

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

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

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

Anthony Knight
Director
Office of Petitions

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

Advisory Action Before the Filing of an Appeal Brief	Application No. 11/306,582	Applicant(s) MORA-GUTIERREZ ET AL.	
	Examiner BIJAN AHVAZI	Art Unit 1761	

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

THE REPLY FILED 27 April 2011 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☐ The period for reply expires _____months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.
   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: _____.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

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

REQUEST FOR RECONSIDERATION/OTHER

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

Bijan Ahvazi
Examiner
Art Unit: 1761

Continuation of 13. Other: The proposed amendment would required further consideration and an interference search.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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OCT 03 2011
OFFICE OF PETITIONS

ROSENBAUM & SILVERT, P.C.
1480 TECHNY ROAD
NORTHBROOK IL 60062

In re Application of	:	
Adela MORA-GUTIEREZ et al.	:	ON PETITION
Application No. 11/306,582	:	
Filed: January 3, 2006	:	
Atty. Docket No.: 6104-003		

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

The petition is **GRANTED.**

The application went abandoned for failure to reply in a timely manner to the final Office action mailed July 27, 2009 (Office action), which set a shortened statutory period for reply of three (3) months. No appropriate reply was received. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. The application became abandoned on October 28, 2009. A Notice of Abandonment was mailed on March 24, 2010.

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

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

Application No. 11/306,582

The application will be referred to Technology Center Art Unit 1796 for consideration of the filed Response.

Ramesh Krishnamurthy

for Anthony Knight
Director
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

HOUSTON OFFICE OF
NOVAK DRUCE AND QUIGG LLP
1000 LOUISIANA STREET
FIFTY-THIRD FLOOR
HOUSTON TX 77002

MAILED
NOV 22 2010
OFFICE OF PETITIONS

In re Application of
Nordahl et al.
Application No.11/307,123
Filed: January 24, 2006
Attorney Docket No. 6730.062.NPUS01

ON PETITION

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

The petition is GRANTED.

This above-identified application became abandoned for failure to file a response to a Notice to file Missing Parts of a Nonprovisional Application which was mailed on June 1, 2006. The Notice to File Missing Parts set an extendable two (2) month period for reply. No extensions of time were obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on August 2, 2006. A Notice of Abandonment was mailed on June 18, 2007. Petitions filed under 37 CFR 1.137(b) were dismissed on January 25, 2008, June 18, 2008 and June 14, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the declaration, surcharge and filing fees (2) the petition fee of $1500, and (3) a proper statement of unintentional delay.

The power of attorney and change of address submitted on October 8, 2008 has been entered.

This application is being referred to the Office of Patent Application Processing for pre-examination processing.

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

Charlema Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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WONG CABELLO LUTSCH RUTHERFORD & BRUCCULERI, L.L.P.
20333 SH 249 6TH FLOOR
HOUSTON, TX 77070

MAILED

JAN 19 2011

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Youssef Saleh et al :
Application No. 11/307,194 :
Filed: January 26, 2006 :
Attorney Docket No. 199-0472US

This is a decision on the petition, filed January 18, 2011 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 13, 2010 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2614 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAILED
MAY 09 2011
OFFICE OF PETITIONS

SCHLUMBERGER TECHNOLOGY CORPORATION
14910 AIRLINE ROAD
ROSHARON TX 77583

In re Application of
Kosmala, et al.
Application No.: 11/307,263
Filed: January 30, 2006
Attorney Docket No:103.0014

ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), March 23, 2011, to revive the above-identified application.

The petition is **dismissed**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition" under 37 CFR 1.137(b)."

This application became abandoned for failure to respond in a timely manner to the "Notice of Panel Decision from Pre-Appeal Brief Review" mailed July 7, 2010. The notice set a shortened period for reply of one month from its mailing date. No response was received within the allowable period, and the application became abandoned on August 8, 2010. A Notice of Abandonment was mailed February 1, 2011.

Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a non-provisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee, or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

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

Item 1 above has not been satisfied as an appeal brief in compliance with 37 CFR 41.37 was not filed. Petitioner filed a Notice of Appeal with the instant petition, however; the notice mailed July 7, 2010, required an appeal brief to be filed. The renewed petition must be accompanied by an appeal brief or a Request for Continued Examination and submission.

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

By mail: Commissioner for Patents
United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

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

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

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SCHLUMBERGER TECHNOLOGY CORPORATION
14910 AIRLINE ROAD
ROSHARON TX 77583

MAILED
JUN 09 2011
OFFICE OF PETITIONS

In re Application of :
Kosmala, et al. :
Application No.: 11/307,263 : ON PETITION
Filed: January 30, 2006 :
Attorney Docket No:103.0014

This is a decision on the renewed petition under 37 CFR 1.137(b), filed May 19, 2011 to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to respond in a timely manner to the "Notice of Panel Decision from Pre-Appeal Brief Review" mailed July 7, 2010. The notice set a shortened period for reply of one month from its mailing date. No response was received within the allowable period, and the application became abandoned on August 8, 2010. A Notice of Abandonment was mailed February 1, 2011.

The appeal brief filed May 19, 2011, is noted.

The application is being forwarded to Technology Center 2600, GAU 2612 for further processing.

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

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SCHLUMBERGER
200 GILLINGHAM LANE MD 200-9
SUGAR LAND TX 77478

MAILED

SEP 01 2011

OFFICE OF PETITIONS

In re Application of	:	
Innes et al.	:	
Application No. 11/307,320	:	ON PETITION
Filed: February 1, 2006	:	
Attorney Docket No. 100.0006	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 18, 2011, to revive the above-identified application.

The petition is **GRANTED**.

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

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1110.00 extension of time fee submitted with the petition was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account as authorized.

This application is being referred to Technology Center AU 3676 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) 272-3206.

/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

Paper No.

YAMAHA
C/O KEATING & BENNETT, LLP
1800 Alexander Bell Drive
SUITE 200
Reston VA 20191

MAILED
JAN 04 2011
OFFICE OF PETITIONS

In re Application of	:	
Masaoka et al.	:	
Application No. 11/307,412	:	DECISION ON PETITION
Filed: February 6, 2006	:	PURSUANT TO 37 C.F.R.
Attorney Docket Number:	:	§ 1.137(B)
90606.693/ym	:	
Title: KICKBACK PREVENTING	:	
CIRCUIT FOR ENGINE	:	

This is a decision on the petition filed December 9, 2010, pursuant to 37 C.F.R. § 1.137(b), to revive the above-identified application.

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

The above-identified application became abandoned due to the April 15, 2009 decision of the Board for Patent Appeals and Interferences which upheld the Examiner's rejections. Accordingly, the above-identified application became abandoned June 16, 2009, the expiration of the period for seeking judicial review of this decision.[1] A Notice of Abandonment was mailed on April 20, 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

1 See MPEP § 1216.

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. Petitioner has further indicated that a continuation application has been filed.

Office records confirm that continuation application no. 12/963,784 was filed on December 9, 2010.

The first three requirements of Rule 1.137(b) have been met. The fourth requirement of Rule 1.137(b) is not applicable, as a terminal disclaimer is not required.[2]

Since this application is being revived for purposes of continuity only and since continuity has been established by this decision reviving the application, the application is again abandoned in favor of continuation application number 12/963,784.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[3] 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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2 See Rule 1.137(d).
3 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

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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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GEOFFREY E. DOBBIN, PATENT
ATTORNEY
4278 SOUTH 6220 WEST
WEST VALLEY CITY UT 84128-6501

MAILED

JUL 01 2011

OFFICE OF PETITIONS

In re Application of

Fitzpatrick, et al.

Application No. 11/307,493

Filed: February 9, 2006

Attorney Docket No. **GDRMF01AA**

DECISION ON PETITION

This is in response to the petition under 37 CFR 1.137(b) filed May 7, 2011.

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

The record reflects that a Notice to File Missing Parts of Non-Provisional Application was mailed on February 16, 2006, allowing a shortened period for reply of two months from its mailing date. Extensions of the time set for reply were available pursuant to 37 CFR 1.136(a). No response was received within the allowable period as set forth in the Notice mailed February 16, 2006, and the application became abandoned on April 17, 2006. A Notice of Abandonment was mailed on November 3, 2006.

The declaration and surcharge are noted as having been received May 7, 2011.

This application is being forwarded to the Office of Patent Application Processing for further processing.

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

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110907

DATE : September 07, 2011

TO SPE OF : ART UNIT 3641

SUBJECT : Request for Certificate of Correction on Patent No.: 7,600,337

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

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

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

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

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

Note your decision on the appropriated box.

☒ **Approved** All changes apply.

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

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

Comments:

/MICHAEL CARONE/
Supervisory Patent Examiner.Art Unit 3641

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 8/9/2010

TO SPE OF : ART UNIT 2471 Phan Chi (spe)

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/307577 Patent No.: 7738833

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
Randolph Square – 9D40-A
Palm Location 7580

Certificates of Correction Branch
703-756-1571 _____

Thank You For Your Assistance

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

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

Comments: _____

SPE

2471
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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MAILED

AUG 10 2011

OFFICE OF PETITIONS

ROBERT A. PARSONS
4000 N. CENTRAL AVENUE, SUITE 1220
PHOENIX, AZ 85012

In re Application of
Michael D. Metcalf
Application No. 11/307,672
Filed: February 16, 2006
Attorney Docket No.: 5002-A3

ON PETITION

This is a decision in response to the petition, filed, August 1, 2011, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed October 15, 2009, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on January 16, 2010. A Notice of Abandonment was mailed on June 22, 2010.

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

This application is being referred to Technology Center AU 2614 for appropriate action by the Examiner in the normal course of business on the reply received August 1, 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

- 9 SEP 2010

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ATTN: Stephen B. Parker (WPD)
Westerman, Hattori, Daniels & Adrian, LLP
1250 Connecticut Ave., Suite 700
Washington DC 20036

In re Application of	:	
TANAKA, Masaya, et al.	:	
U.S. Application No.: 11/307,710	:	
Filing Date: 17 February 2006	:	DECISION
Attorney Docket No.: 2915-108	:	
For: COMPOSITIONS FOR THE ...	:	
FOR EXTERNAL USE	:	

This application is before the Office of PCT Legal Administration for matters arising under 35 USC 371.

BACKGROUND

On 17 February 2006, applicant filed the present application via the EFS-ABX system. The application was processed as a filing under 35 USC 111(a).

On 01 March 2006, the Office mailed Notice to File Missing Parts of Nonprovisional Application, Filed Under 37 CFR 1.53(b), indicating that the complete basic filing fee and an oath or declaration were missing

On 07 May 2010, the Office mailed an Office Action indicating that the foreign priority claims was to a application more than 12 months prior to this application and informing applicant that this application is *not* a national phase application under 35 USC 371.

On 01 July 2010, applicants filed this petition requesting that this application be processed as a 35 USC 371 application.

DISCUSSION

Applicants claim to have filed a national stage application of PCT/JP2004/011882 through EFS-ABX. As indicated in the "Legal Framework for the Use of the Electronic Filing System," published in an OG Notice on 14 September 2004, national stage filings under section 371 could not be filed through the electronic filing system at the time this application was filed. The electronic filing of national phase applications was not authorized until 27 January 2007.

As such, this application was processed as it would be in the absence of an indication of applicant's intent, as a filing under 35 USC 111(a). MPEP 1893.03(a). To obtain benefit of the earlier international application, applicant must amend the beginning of the specification of this application by inserting a proper reference to the parent international application or submit a

replacement ADS setting forth the proper reference. The current ADS that erroneously identifies this application as a national phase filing of PCT/JP2004/011882, will not satisfy the requirement.

An appropriate passage would be, "This is an continuation of international application PCT/JP2004/011882, filed 19 August 2004, which designated the United States and is now abandoned." In addition, since the application was filed after November 29, 2000, applicant must file a surcharge and petition under 37 CFR 1.78(a)(3) for an unintentionally delayed claim under 35 U.S.C. 120 for the benefit of a prior international application.

CONCLUSION

As indicated above, this application is a 35 USC 111(a) filing.

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.

/Erin P. Thomson/

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292

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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ATTN: Stephen B. Parker (WPD)
Westerman, Hattori, Daniels & Adrian, LLP
1250 Connecticut Ave., Suite 700
Washington DC 20036

MAILED
APR 11 2011
PCT LEGAL ADMINISTRATION

In re Application of :
TANAKA, Masaya, et al. :
U.S. Application No.: 11/307,710 :
Filing Date: 17 February 2006 : DECISION
Attorney Docket No.: 2915-108 :
For: COMPOSITIONS FOR THE ... :
FOR EXTERNAL USE :

This is a decision on the "Petition for Correction of Priority Claim", filed 24 September 2010, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed international application and acceptance of an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for benefit of the filing date of a foreign Japanese application, Application No. 2003-295443, filed 19 August 2003. The petition has been treated as a petition under 37 CFR §§1.78(a)(3) and 1.55(c).

The petition is **DISMISSED**.

A 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 under 37 CFR 1.78(a)(3) satisfies the above requirements, however, the petition under 37 CFR 1.55 (c) is not grantable.

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 instant petition fails to comply with item (2) above. In this regard, a review of the file record fails to disclose that the priority information was included in an oath or declaration or in an Application Data Sheet (ADS) in accordance with 37 CFR 1.76(b)(6). While the ADS filed 17 February 2006 included a foreign priority claim to the Japanese application, the filing date indicated in the ADS ("2003-09-08") is not the same as the filing date now presented on petition ("19 August 2003"). Unless provided in an application data sheet, 37 CFR 1.63(c)(2) requires that the oath or declaration must identify the foreign application for patent or inventor's certificate for which priority is claimed under 37 CFR 1.55, and any foreign applications having a filing date before that of the application on which priority is claimed, by specifying the application number, country, day, month, and year of its filing. See MPEP 201.14.

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

Any questions concerning this matter may be directed to Erin Thomson at (571) 272-3292. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

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.

/Boris Milef/

Boris Milef
Legal Examiner
Office of PCT Legal Administration

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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ATTN: Stephen B. Parker (WPD)
Westerman, Hattori, Daniels & Adrian, LLP
1250 Connecticut Ave., Suite 700
Washington DC 20036

MAILED

AUG 02 2011

PCT LEGAL ADMINISTRATION

In re Application of :
TANAKA, Masaya, et al. :
U.S. Application No.: 11/307,710 :
Filing Date: 17 February 2006 : DECISION
Attorney Docket No.: 2915-108 :
For: COMPOSITIONS FOR THE ... :
FOR EXTERNAL USE :

This is a decision on applicant's renewed petition under 37 CFR 1.55(c), filed 26 May 2011, to accept an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for benefit of the filing date of a foreign Japanese application, Application No. 2003-295443, filed 19 August 2003.

The petition is **GRANTED**.

As indicated in the prior decision mailed 11 April 2011, applicant's 24 September 2010 petition under 37 CFR 1.78(a)(3) for a delayed claim of benefit to PCT/JP2004/011882 satisfied the requirements under 37 CFR 1.78(a)(3), but the petition under 37 CFR 1.55(c) lacked a proper reference to the Japanese application.

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 above-identified pending nonprovisional application was filed after November 29, 2000 and within 12 months of the foreign application to which benefit is now being claimed. On 26 May 2011, an application data sheet identifying the foreign application for which priority is claimed by application number, country and filing date was filed. The required petition fee has been paid. The petitioner has provided an adequate statement of unintentional delay.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) and 37 CFR 1.55(c) should not be construed as meaning that this application is entitled to the benefit of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §§ 120 and 365(c) and 37 CFR 1.78(a)(1) and (a)(2) and 35 § U.S.C. 119(a)-(d) and 37 CFR 1.55(a)(1) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether this application is entitled to the benefit of the earlier filing date.

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

Any questions concerning this matter may be directed to Erin Thomson at (571) 272-3292. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center AU 1618 for consideration by the examiner of applicant's entitlement to claim benefit of priority to the prior-filed applications

/Boris Milef/

Boris Milef
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
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GEOFFREY E. DOBBIN, PATENT ATTORNEY
4278 SOUTH 6220 WEST
WEST VALLEY CITY UT 84128-6501

MAILED

APR 05 2011

OFFICE OF PETITIONS

In re Application of:	:	
Ferdinand S. Sy	:	
Application No. 11/308,008	:	DECISION ON PETITION
Filing Date: March 02, 2006	:	
Attorney Docket No. GDFSS01B	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed on March 16, 2011, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to file a proper reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application mailed April 25, 2006, which set a shortened statutory period for reply of two (2) months. No extensions of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on June 26, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the required fees and signed oath or declaration, (2) the petition fee of $810, and (3) a proper statement of unintentional delay. Accordingly, the reply to the Notice to File Missing Parts of Nonprovisional Application of April 25, 2006 is accepted as having been unintentionally delayed.

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

The application is being referred to the Office of Patent Application Processing for further processing.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 7239555
Issue Date: July 3,2007
Application No. 11308018
Filed: March 3,2006
Attorney Docket No. 15599-US-PA

:

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

:

This is a decision on the electronic petition, filed April 9,2012 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of April 9,2012 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7,239,555	2007-07-03	11/308,018	2006-03-03	LKSP0167USA

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

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

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Winston Hsu/	Date (YYYY-MM-DD)	2012-04-09
Name	Winston Hsu	Registration Number	41526

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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STEPTOE & JOHNSON LLP
2121 AVENUE OF THE STARS
SUITE 2800
LOS ANGELES CA 90067

MAILED
MAY 3 1 2011
OFFICE OF PETITIONS

In re Application of	:	
Li-Chien Hsu et al.	:	
Application No. 11/308,265	:	DECISION ON PETITION
Filed: March 14, 2006	:	TO WITHDRAW
Attorney Docket No. 83338.0005	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 5, 2011.

The request is **NOT APPROVED.**

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

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

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

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

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

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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FASKEN MARTINEAU DUMOULIN, LLP
STOCK EXCHANGE TOWER, SUITE 3700
P.O. BOX 242, 800 PLACE VICTORIA
MONTREAL QC H4Z 1E9 CA CANADA

MAILED
JAN 3 1 2011
OFFICE OF PETITIONS

In re Application of :
Jun Lu et al. :
Application No. 11/308,358 : DECISION ON PETITION
Filed: March 18, 2006 :
Attorney Docket No. 279190.11 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 3, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed January 14, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on April 15, 2008. A Notice of Abandonment was mailed on September 15, 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. 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.

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

This application is being referred to Technology Center AU 2832 for appropriate action by the Examiner in the normal course of business on the reply received July 3, 2009.

/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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Altis Law Group, Inc.
ATTN: Steven Reiss
288 SOUTH MAYO AVENUE
CITY OF INDUSTRY CA 91789

MAILED
AUG 13 2010
OFFICE OF PETITIONS

In re Patent No. 7,537,047 :
Issue Date: May 26, 2009 :
Application No. 11/308,426 : DECISION ON PETITION
Filed: March 23, 2006 :
Attorney Docket No. US9721 :

This is a decision on the Request For Certificate Of Correction, filed July 10, 2009, which is being treated as a Petition Under 37 CFR 3.81(b) to change the order of assignees' name on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **DISMISSED**.

Petitioner requests issuance of a Certificate of Correction to change the order of assignees' name to "Fu Zhun Precision Industry (Shen Zhen) Co., Ltd., Shenzhen, Guangdong Province, (CN); Foxconn Technology Co. Ltd., TuCheng, Taipei Hsien, (TW)".

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

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 **before issuance of the patent**, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter [emphasis added]. *See also* MPEP 1481.01.

In the present situation, the patent has already issued stating the correct names of the assignees and thus, no error correctable under 37 CFR 3.81(b) exists. As such, the Petition must be dismissed.

Should patentee continue to desire to change the order of the assignees, patentee may file a Petition Under 37 CFR 1.182, a $400.00 petition fee (Fee Code 1462) as set forth under 37 CFR 1.17(f), and a statement by both assignees consenting to the requested change in the order listed thereof. The form PTO/SB/44, filed July 10, 2009, showing the requested change in order of assignees has been satisfied.

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

Cheryl Gibson-Baylor

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

cc: PCE Industry, Inc.
458 E. Lambert Road
Fullerton, CA 92835

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)
7,183,607	2007-02-27	11/308,621	2006-04-13	LKSP0151USA

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

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

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Winston Hsu/	Date (YYYY-MM-DD)	2012-04-05
Name	Winston Hsu	Registration Number	41526

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

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

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

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

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

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

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

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

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

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

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

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In re Patent No.	7183607	:
Issue Date:	February 27,2007	
Application No.	11308621	:DECISION GRANTING PETITION
Filed:	April 13,2006	:UNDER 37 CFR 1.378(c)
Attorney Docket No.	18401-US-PA	:

This is a decision on the electronic petition, filed April 5,2012 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of April 5,2012 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAILED

DEC 16 2010

OFFICE OF PETITIONS

GREG COULTER
205
11170 30 STREET SW
CALGARY T2W 6J2 CA CANADA

In re Application of	:	
Greg Coulter	:	
Application No. 11/308,714	:	ON PETITION
Filed: April 25, 2006	:	
Attorney Docket No. 2489-101	:	

This is in response to petition to revive an unintentionally abandoned application under 37 CFR 1.137(b), filed September 22, 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 July 21, 2009, which set a shortened statutory period for reply of three months. Applicant filed an Amendment on October 7, 2009. However, the Amendment was not entered because it failed to place the application in condition for allowance. As such, the application became abandoned on October 22, 2009. The Office mailed a Notice of Abandonment on May 14, 2010.

With the instant petition, petitioner paid the petition fee and made the proper statement of unintentional delay. The required reply in the form of an RCE was previously filed on June 14, 2010.

The application is being forwarded to Group Art Unit 3694 for consideration of the RCE, filed June 14, 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

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

Patent No. : 8,069,101
Ser. No. : 11/308,886
Inventor(s) : Goetz Van Groll et al.
Issued : Nov. 29, 2011
Title : FINANCIAL METHODOLOGY TO VALUATE AND PREDICT THE NEWS IMPACT OF MAJOR EVENTS ON FINANCIAL INSTRUMENTS
Docket No. : 1034573-000002
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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ALEXANDRIA, VA 22313-1450
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SCHLUMBERGER RESERVOIR COMPLETIONS
14910 AIRLINE ROAD
Bldg. 14
ROSHARON TX 77583

MAILED
DEC 13 2010
OFFICE OF PETITIONS

In re Application of :
Gary L. Rytlewski :
Application Number: 11/308999 : ON PETITION
Filing Date: 06/06/2006 :
Attorney Docket Number: 68.0633 :
:

This is a decision in response to the petition under 37 CFR 1.137(b) filed on October 15, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on August 29, 2010, for failure to file timely submit corrected drawings in response to the Notice of Allowability mailed on May 28, 2010, which set a three (3) month statutory period for reply. Notice of Abandonment was mailed on September 14, 2010.

Receipt of two (2) sheets of corrected drawings is acknowledged.

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.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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PATENT SERVICES
101 COLUMBIA ROAD
P O BOX 2245
MORRISTOWN NJ 07962-2245

MAILED
NOV 3 0 2010
OFFICE OF PETITIONS

In re Application of	:	
Sharma et al.	:	
Application No. 11/309,655	:	DECISION ON PETITION
Filed: September 6, 2006	:	
Attorney Docket No. H0012581	:	

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

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before October 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 October 22, 2010.

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

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.

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. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

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

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

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: NARENDRA R. THAPPETA
TRIATEK, INC.
2976 PACIFIC DRIVE
NORCROSS, GA 30071

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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INTELLUCTUAL PROPERTY GROUP, MDT PATENTS
FREDRIKSON & BYRON, PA
200 SOUTH SIXTH STREET, SUITE 200
MINNEAPOLIS, MN 55402

MAILED
AUG 27 2010
OFFICE OF PETITIONS

In re Application of	:	
Jonathon E. Giftakis, et al.	:	
Application No. 11/311,043	:	DECISION GRANTING PETITION
Filed: December 19, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 539.3126.1	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed August 26, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on August 5, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 3766 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

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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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FREDRIKSON & BYRON, P.A.
200 SOUTH SIXTH STREET, SUITE 4000
MINNEAPOLIS MN 55402

MAILED
AUG 2 7 2010
OFFICE OF PETITIONS

In re Application of	:	
Jonathon E. Giftakis et al	:	
Application No. 11/311,200	:	DECISION GRANTING PETITION
Filed: December 19, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 539.3124.1	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed August 26, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on July 20, 2010, cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 3735 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

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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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MINNEAPOLIS MN 55402

MAILED
MAY 23 2011
OFFICE OF PETITIONS

In re Application of :
Jonathon E. Giftakis et al :
Application No. 11/311,200 : DECISION GRANTING PETITION
Filed: December 19, 2005 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 539.3124.1 :

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on November 18, 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 3735 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

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

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

PTO/SB/131 (01-10)
Approved for use through 02/28/2011. OMB 0651-0020
U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

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

Attorney Docket Number: 8022-1110	Patent Number: 7,668,837
Filing Date (or 371(b) or (f) Date): 20-Dec-2005	Issue Date: 23-Feb-2010
First Named Inventor: SHIRANO, Yasuyuki	
Title: MULTIPLES APPARATUS AND METHOD FOR MULTIPLEXING LEGACY DEVICE	

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

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

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

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

Signature /Benoit Castel/	Date August 17, 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)
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
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www.uspto.gov

YOUNG & THOMPSON
209 Madison Street
Suite 500
Alexandria, VA 22314

Mail Date: 08/25/2010

Applicant	: Yasuyuki Shirano	: DECISION ON REQUEST FOR
Patent Number	: 7668837	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/311,283	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/20/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **401** 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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INTELLECTUAL PROPERTY GROUP, MDT PATENTS
200 SOUTH SIXTH STREET, SUITE 400
MINNEAPOLIS MN 55402

MAILED
MAY 23 2011
OFFICE OF PETITIONS

In re Application of	:	
Jonathon E. Giftakis et al	:	
Application No. 11/311,393	:	DECISION GRANTING PETITION
Filed: December 19, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 539.3122.1	:	

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

The petition is **GRANTED**.

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

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

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

This application is being referred to Technology Center AU 3735 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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HOLTZ, HOLTZ, GOODMAN & CHICK PC
220 FIFTH AVENUE
16TH FLOOR
NEW YORK, NY 10001-7708

MAILED

FEB 02 2011

OFFICE OF PETITIONS

In re Application of	:	
Minoru Yamaguchi, et al.	:	
Application No. 11/311,675	:	DECISION GRANTING PETITION
Filed: December 19, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 05888/LH	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed February 1, 2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 30, 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 2883 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

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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.*

UNITED STATES PATENT AND TRADEMARK OFFICE

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SCHWABE, WILLIAMSON & WYATT, P.C.
1420 FIFTH, SUITE 3400
SEATTLE WA 98101-4010

MAILED

OCT 22 2010

OFFICE OF PETITIONS

In re Application of	:	
Frederic RABLEWSKI	:	
Application No. 11/311,718	:	DECISION ON PETITION
Filed: December 19, 2005	:	TO WITHDRAW
Attorney Docket No. 109893-144777	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 1, 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 change of correspondence address is not that of an assignee 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 inquiries concerning this decision should be directed to the undersigned at (571) 272- 6735.

/Diane Goodwyn/
Diane Goodwyn
Petitions Examiner
Office of Petitions

Cc: ABOUND LOGIC S.A.S.
PARC BUROSPACE,
1 ROUTE DE GISY-HALL 1 BIS
BIEVRES 91570 FRANCE

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Date Mailed : August 4, 2010

Patent No. : 7,380,299
Patent Issued : June 3, 2008
Docket No. : IMP-20
Re: Request for Certificate of Correction

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

The alleged error(s) Since correction requested is not an office error it falls under 35 USC 255.35 USC 255 requires mistake to be clerical or typographical in nature. This is not the case here. Patentee should consider the filing of a reissue to correct the drawings. the patent is printed in accordance with the record .In view of the foregoing, your request, in this matter(s), is hereby denied.

Further consideration/reconsideration will be given upon receipt of a Request for Reconsideration under, under the provision of U.SC.254 or 255 (C.F.R. 1.322 or 1.323), accompanied by the appropriate response or fee of $100, which should be directed to Decisions & Certificates of Correction Branch.

Ennis Young
Legal Instrument Examiner
(703) 756-1542

For Mary Diggs, Supervisor
Decisions & Certificates of Correction Branch
(703) 756-1580 or (703) 756-1814 (Receptionist)

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& WOESSNER/ MONSANTO
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MINNEAPOLIS MN 55402

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FEB 08 2011

OFFICE OF PETITIONS

In re Application of
Abad, et al.
Application No. 11/311,940
Filed/Deposited: 19 December, 2005
Attorney Docket No. 3126.011US1

DECISION

This is a decision on the petition filed on 6 December, 2010, considered as a petition under 37 C.F.R. §1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition under 37 C.F.R. §1.181 is **GRANTED**.

As to the Request to Withdraw
the Holding of Abandonment

Petitioners always are directed to the Commentary at MPEP §711.03(c)(I) for guidance as to the proper showing and timeliness requirements for relief under 37 C.F.R. §1.181.

BACKGROUND

The record reflects as follows:

Applicant failed to reply timely and properly to the non-final Office action mailed on 21 May, 2010, with reply due absent extension of time on or before 21 August, 2010.

The application went abandoned by operation of law after midnight 21 August, 2010.

The Office mailed the Notice of Abandonment on 1 December, 2010.

On 6 December, 2010, Petitioner filed a petition pursuant to 37 C.F.R. §1.181 and averred timely reply on 23 November, 2010, over a 19 November, 2010, certificate of mailing, with a request

and fee for extension of time, and pointed to the reply of record in the form of an amendment consistent with the copy of the date-stamped ("NOV 23 2010") receipt card.

The guidance in the Commentary at MPEP §711.03(c)(I) provides in pertinent part as to timely reply:

***

> 37 C.F.R. §1.10(c) through §1.10(e) and §1.10(g) set forth procedures for petitioning the Director of the USPTO to accord a filing date to correspondence as of the date of deposit of the correspondence as "Express Mail." A petition to withdraw the holding of abandonment relying upon a timely reply placed in "Express Mail" must include an appropriate petition under 37 C.F.R. §1.10(c), (d), (e), or (g) (see MPEP §513). When a paper is shown to have been mailed to the Office using the "Express Mail" procedures, the paper must be entered in PALM with the "Express Mail" date.
>
> Similarly, applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides *prima facie* evidence that the reply was timely filed. See MPEP §503. For example, if the application has been held abandoned for failure to file a reply to a first Office action, and applicant has a postcard receipt showing that an amendment was timely filed in response to the Office action, then the holding of abandonment should be withdrawn upon the filing of a petition to withdraw the holding of abandonment. When the reply is shown to have been timely filed based on a postcard receipt, the reply must be entered into PALM using the date of receipt of the reply as shown on the post card receipt.
>
> Where a certificate of mailing under 37 C.F.R. §1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 C.F.R. 1.8(b) and MPEP §512. As stated in 37 C.F.R. §1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is shown to have been timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 C.F.R. §1.8).
>
> 37 C.F.R. §1.8(b) also permits applicant to notify the Office of a previous mailing or transmission of correspondence and submit a statement under 37 C.F.R. §1.8(b)(3) accompanied by a duplicate copy of the correspondence when a reasonable amount of time (e.g., more than one month) has elapsed from the time of mailing or transmitting of

> the correspondence. Applicant does not have to wait until the application becomes abandoned before notifying the Office of the previous mailing or transmission of the correspondence. Applicant should check the private Patent Application Information Retrieval (PAIR) system for the status of the correspondence before notifying the Office. See MPEP §512. [1]
>
> ***

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (*see*: 37 C.F.R. §1.181(f)), and those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[2]

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

STATUTES, REGULATIONS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994). And the regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application.[3],[4]

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.

---

[1] *See*: MPEP §711.03(c) (I)(B).

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

[3] See: Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. at 53158-59 (October 10, 1997), 1203 Off. Gaz. Pat. Office at 86-87 (October 21, 1997).

[4] The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition. (Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.) Delays in responding properly raise the question whether delays are unavoidable. Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) And the Petitioner must be diligent in attending to the matter. Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care. (By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.))

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 and when it is to be made and supported.

Petitioner appears to have made the showing required.

CONCLUSION

Accordingly, the petition as considered under 37 C.F.R. §1.181 is **granted**, and the 1 December, 2010, Notice of Abandonment hereby is **vacated**.

The instant application is released to the Technology Center/AU 1638 for further processing in due course.

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

---

[5] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[6]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

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

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600 NORTH US HIGHWAY 45
W2-55BB
LIBERTYVILLE, IL 60048-5343

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MAY 18 2011

OFFICE OF PETITIONS

In re Application of	:	
Naveen Aerrabotu, et al.	:	
Application No. 11/311,942	:	DECISION ON PETITION
Filed: December 20, 2005	:	
Attorney Docket No. CS26925RL	:	

This is a decision on the petition, filed March 11, 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 June 11, 2010, which set a three (3) month shortened statutory period for reply. Accordingly, a reply was due on or before September 11, 2010.

Petitioner states that a timely reply was mailed via EFS Web on August 24, 2010, which included the following papers: an Amendment. Petitioner has submitted a copy of the previously mailed correspondence, which bears an EFS Web receipt date of August 24, 2010, which rendered the reply timely. The original reply is in the file.

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

This application is being referred to Technology Center AU 3685 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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WILMINGTON DE 19805

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FEB 02 2011

OFFICE OF PETITIONS

In re Application of	:	
Williamson et al.	:	
Application No. 11/312,065	:	DECISION ON PETITION
Filed: December 20, 2005	:	
Attorney Docket No. CL3114USNA	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement mailed June 4, 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 July 5, 2009. A Notice of Abandonment was mailed December 11, 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 response to the Restriction Requirement, (2) the petition fee of $1,620.00, and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 1792 for appropriate action by the Examiner in the normal course of business on the reply received.

Joan Olszewski
Petitions Examiner
Office of Petitions

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FARIBA SIRJANI
925 DELWARE AVENUE, APT. 9C
BUFFALO, NY 14209

MAILED

MAR 14 2011

OFFICE OF PETITIONS

In re Application of	:	
Chun Jay	:	
Application No. 11/312,150	:	DECISION ON PETITION
Filed: December 19, 2005	:	TO WITHDRAW
Attorney Docket No. 64756.00008	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 2, 2011 and resubmitted on February 14, 2011.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. 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 Fariba Sirjani. Fariba Sirjani have been withdrawn as attorney or agent of record; all other attorneys remain of record.

The correspondence address of record remains unchanged.

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

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

cc: **MEREDITH & KEYHANI, PLLC**
330 MADISON AVE.
6TH FLOOR
NEW YORK NY 10017

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Cooley, LLP
Attn: Patent Group
Suite 1100
777 – 6th Street, NW
Washington, DC 20001

MAILED
MAY 31 2011
OFFICE OF PETITIONS

In re Application of	:	
Alexey L. Margolin et al.	:	
Application No. 11/312,210	:	DECISION ON PETITION
Filed: December 19, 2005	:	TO WITHDRAW
Attorney Docket No. ALTH-011/06US 307255-2172	:	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 12, 2011.

The request is **moot because a revocation of power of attorney has been filed**.

A review of the file record indicates that the power of attorney to Cooley, LLP, has been revoked by the assignee of the patent application on May 19, 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: Wilson, Sonsini, Goodrich & Rosati
650 Page Mill Road
Palo Alto, CA 94304-1050

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/312,210	12/19/2005	Alexey L. Margolin	ALTH-011/06US 307255-2172

CONFIRMATION NO. 5613

POWER OF ATTORNEY NOTICE

OC000000047860202

58249
COOLEY LLP
ATTN: Patent Group
Suite 1100
777 - 6th Street, NW
WASHINGTON, DC 20001

Date Mailed: 05/24/2011

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/19/2011.

- 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).

/qtran/

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

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FEB 14 2011

OFFICE OF PETITIONS

In re Application of	:	
Thomas C. Piotrowski et al	:	
Application No. 11/312,283	:	DECISION ON PETITION
Filed: December 20, 2005	:	
Attorney Docket No. PROT-007	:	

This is a decision on the petition, filed October 13, 2010 under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

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

This application was held abandoned for failure to reply in a timely manner to the Notice of Non-Compliant Amendment (37 CFR 1.121), (Notice) mailed February 12, 2010. A Notice of Abandonment was mailed on October 8, 2010.

Applicant files the present petition and states that "As stated in the Examiner's Interview summary, counsel pointed out where the amended claim in question was properly marked. The Examiner agreed that the amendment was properly marked, agreed to withdraw the Notice of Non-Compliant Amendment and re-docket the case to the Examiner for reconsideration. The Examiner indicated to undersigned counsel that no separate Interview Summary Recorded by Applicant was required.

Applicant also submits that the Examiner's Interview Summary mailed February 22, 2010 completely recorded the substance of the interview and agreement reached and did not require a

separate Interview Summary Record by Applicant. Thus, the Office letter of February 12, 2010 was replied to, and the Notice of Abandonment should not have issued."

However, Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s). Therefore, **petitioner must respond to any outstanding requirement in writing.** In this instance, the Office is **not** in receipt of a reply in writing to the Notice mailed February 12, 2010.

Regrettably, and in view of the above, the petition under 37 C.F.R. 1.181 to withdraw holding of abandonment is dismissed.

Petitioner may consider filing a petition under 37 CFR 1.137(b) stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the $1,620.00 petition fee.

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

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

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

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

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

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

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

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

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JUN 27 2011

OFFICE OF PETITIONS

In re Application of	:	
Thomas C. Piotrowski et al	:	
Application No. 11/312,283	:	DECISION ON PETITION
Filed: December 20, 2005	:	
Attorney Docket No. PROT-007	:	

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

The petition is **DENIED**.

BACKGROUND

The instant application was filed on December 20, 2005.

On August 5, 2009, a nonfinal Office action was mailed. The Office action set a statutory period of three-months from the mail date of the Office action to reply.

An amendment in response to the nonfinal Office action was timely received on October 29, 2009. However, on February 12, 2010, a Notice of Non-Compliant Amendment (37 CFR 1.121) was mailed to applicant. An Interview Summary was conducted on February 18, 2010. A Notice of abandonment was mailed on October 8, 2010. A petition to withdraw holding of abandonment was filed on October 13, 2010. On February 14, 2011, a petition dismissing the October 13, 2010 petition was mailed. On February 28, 2011, the instant renewed petition was filed.

STATUTE, REGULATION, AND EXAMINING PROCEDURE

37 CFR 1.2 states:

> 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.

37 CFR 1.135(b) states:

> Prosecution of an application to save it from abandonment pursuant to paragraph (a) of this section must include each complete and proper reply as the condition of the application may require. The admission of, or refusal to admit, any amendment after final rejection or any amendment not responsive to the last action, or any related proceedings, will not operate to save the application from abandonment.

> As was stated in the decision mailed February 14, 2011, Applicant files the present petition and states that "As stated in the Examiner's Interview summary, counsel pointed out where the amended claim in question was properly marked. The Examiner agreed that the amendment was properly marked, agreed to withdraw the Notice of Non-Compliant Amendment and re-docket the case to the Examiner for reconsideration. The Examiner indicated to undersigned counsel that no separate Interview Summary Recorded by Applicant was required.

OPINION

Petitioners request that the holding of abandonment indicated in the Notice of Abandonment mailed October 8, 2010 be withdrawn.

Petitioners were notified in the Notice mailed February 12, 2010, that the amendment filed October 29, 2009 was non-compliant and that Amended claim 11 contains no underlining and/or strike-through markings to indicate the amendment to the claim (section 4(E) of the Notice). The application was held abandoned for failure to reply to the Notice mailed February 12, 2010.

Petitioners argue that "The allegation was erroneous, because amended claim 11 was compliant as filed, and on February 18, 2010, Petitioners telephonically brought this Office error to the attention of the Examiner. The Examiner agreed that claim 11 was compliant and entered into the written record an Interview Summary mailed on February 22, 2010, stating that "The notice

of non-compliant amendment will be withdrawn..." and that "The case will be re-docketed to the examiner for consideration."

However, while applicants did contact the examiner by phone and an Examiner's Interview was conducted on February 22, 2010 and made of record, stating that "The notice of non-compliant amendment will be withdrawn as Ms. Kenney pointed out that claim 11 has proper markings for an amended claim at line 5. The case will be re-docketed to the examiner for consideration." The contact by phone was not the proper procedure to be followed on applicant's part. Again, all business with the Patent and Trademark Office should be transacted in writing (37 CFR 1.2). Therefore, the written record is clear that a complete response to the Notice mailed February 12, 2010, was not provided by applicant and the application was properly abandoned (see 37 CFR 1.135).

DECISION

A review of the record indicates that the Notice of Abandonment mailed October 8, 2010 was proper due to applicant's failure to timely reply to the Notice mailed February 12, 2010. As such, the petition is denied.

ALTERNATIVE AVENUE:

Petitioners are encouraged to file a petition under 37 CFR 1.137 to revive the above referenced application. For petitioner's convenience forms PTO/SB/61 and PTO/SB/64 are attached.

Telephone inquiries concerning this decision should be addressed to Karen Creasy at 571-272-3208.

Anthony Knight
Director, Office of Petitions

ATTACHMENT: Petition Forms PTO/SB/61 and PTO/SB/64

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OFFICE OF PETITIONS

In re Application of	:	
Thomas C. Piotrowski et al	:	
Application No. 11/312,283	:	DECISION ON PETITION
Filed: December 20, 2005	:	
Attorney Docket No. PROT-007	:	

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**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Non-Compliant Amendment (37 CFR 1.121) mailed February 12, 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 3781 for appropriate action by the Examiner in the normal course of business.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

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INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON DC 20044-4300

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AUG 04 2010

OFFICE OF PETITIONS

ON PETITION

In re Patent No. 7,617,057	:
Issue Date: 10 November, 2009	:
Application No. 11/312,464	:
Filed: 21 December, 2005	:
Attorney Docket No. 038655.56340US	:

This is a decision on the petition filed on 17 November, 2009, treated as a request under 37 C.F.R. §3.81(b)[1] and §1.323 to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **GRANTED**.

Petitioner requests issuance of a certificate of correction to insert the name of "*The Institute for Technology Development*."

The regulations at 37 C.F.R. §3.81(a) permits the patent to issue to the assignee, provided that, at the time the issue fee is paid, the name of an assignee is provided. The regulations at 37 C.F.R. §3.81 (b) permits the patent to issue in the name of an assignee if the assignment was submitted after payment of the issue fee but prior to issuance of a patent.

Patent and Trademark Office assignment records disclose that an assignment to *The Institute for Technology Development* was recorded on 8 October, 2009, at Reel/Frame 023347/0417. Thereafter the patent issued, as indicated above, on 10 November, 2009. (*See*, generally in this regard: MPEP §307.)

It is noted that Office Rules of Practice and the guidance in the Commentary require that Petitioner provide the recordation data with/in the petition and this Petitioner failed to do.

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

Patent No. 7,617,057
Application No. 11/312,464

Petitioner states that the correct assignee's name is *The Institute for Technology Development.* The correct assignee's name was not included on the Fee(s) Transmittal form PTOL-85(b) at the time of payment of the issue fee; thus, that information was not printed on the face of the patent.

Accordingly, Petitioner requests that a certificate of correction be issued to reflect the correct assignee on the front page of the Letters Patent in the patent to be issued from the application. The regulations at 37 C.F.R. §3.81(b), effective June 25, 2004, provide:

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

The request was accompanied by a certificate of correction (and fee) as required by 3.81(b). Further, Office assignment records reflect assignment as set forth above.

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

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Accordingly, because the request complies with the provisions of 37 C.F.R. 3.81(b), it is appropriate for a certificate of correction to be processed.

This matter is being referred to the Certificates of Correction Branch for processing of a certificate of correction after issuance of this application into a patent.

---

[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).

Patent No. 7,617,057
Application No. 11/312,464

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[3]) 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).

Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

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

[3] 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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Alexandria, VA 22313-1450
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KLIMA LAW OFFICES, P.L.L.C.
25 WINSOME LANE
FREDERICKSBURG VA 22406

MAILED

AUG 17 2011

OFFICE OF PETITIONS

In re Application of

Blake, et al.

Application No. 11/312,553

Filed: December 21, 2005

Attorney Docket No. 316-104-WLK

: DECISION ON PETITION

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a proper response to the final Office action mailed May 6, 2010. The final Office action set a shortened statutory period for reply of three months from its mailing date. A response was not received, and the application became abandoned on August 7, 2010. A Notice of Abandonment was mailed December 16, 2010.

The Request for Continued Examination filed August 5, 2011, is noted.

The application file is being forwarded to Technology Center 3700, GAU 3774 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

Tech Center Routing Sheet

Application # 12/612,691

Doc Code Date

Date of Request MAILED AUG 18 2011

Doc Code PET.DEC.TC (if not listed)

OFFICE OF PETITIONS

- [ ] 136A — Blanket Authorization to charge fee
- [ ] A.. — Amendment
- [ ] AMSB — Amendment Submitted with CPA/RCE
- [ ] ANE.I — Amendment After Final, Initialed by Examiner
- [ ] APDEC — Board of Appeals Decision
- [ ] APEA — Examiner's Answer to Appeal Brief
- [ ] BIB — Bibiliographic Data Sheet
- [ ] CLM — Claims
- [ ] CLMPTO — USPTO Prepared Claim Set
- [ ] CRFD — CRF Defective
- [ ] CRFE — CRF Entered
- [ ] CTMS — Misc. Office Action
- [ ] DISQ — Terminal Disclaimer Approval Form
- [ ] EXIN — Examiner Interview
- [ ] FOR — Foreign Reference
- [ ] IIFW — File Wrapper Issue Information
- [ ] N271 — Response to Amendment under 312
- [ ] N570 — Accepted Change to Power of Attorney
- [ ] NFDR — Formal Drawings Required
- [ ] NOA — Notice of Allowability or Allowance
- [ ] NPL — Non Patent Literature
- [ ] NRES — Letter restarting period of repsonse
- [ ] NTC.A.NONCPL — Notice of Non-Compliant Amendment
- [ ] PET.DEC.TC — Petition Decision Routed to TC
- [ ] SA — Supplemental Response or Amendment
- [ ] SRFW — File Wrapper Search Information
- [ ] SRNT — Examiner Search Notes
- [ ] WCLM — Claim Worksheet
- [ ] WFEE — Fee Worksheet
- [ ] XRUSH — Response to a Printer Query

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TEXAS INSTRUMENTS
INCORPORATED
P O BOX 655474, M/S 3999
DALLAS TX 75265

MAILED
AUG 18 2011
OFFICE OF PETITIONS

In re Application of

Rajendran, et al. :

Application No. 12/612,691

: DECISION ON PETITION

Filed: November 5, 2009

:

Attorney Docket No. **TI-67219**

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

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, December 10, 2010, which set a shortened statutory period for reply of three (3) months from its mailing date. No extension of time pursuant to 37 CFR 1.136(a) was obtained within the allowable period. Accordingly, the application became abandoned on March 11, 2011. A Notice of Abandonment was mailed June 24, 2011.

The amendment filed August 5, 2011, is noted.

The application is being forwarded to Technology Center 2800, GAU 2817 for further processing.

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

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SEP 13 2010

OFFICE OF PETITIONS

MILLEN, WHITE, ZELANO & BRANIGAN, PC
2200 CLARENDON BLVD
SUITE 1400
ARLINGTON VA 22201

In re Patent No. 7,625,924	: DECISION ON REQUEST
Issued: January 1, 2009	: FOR RECONSIDERATION
Application No. 11/312,831	: OF PATENT TERM ADJUSTMENT
Filed: December 21, 2005	: AND
Attorney Docket No. Memory-0056	: NOTICE OF INTENT TO ISSUE
	: CERTIFICATE OF CORRECTION

This is a decision on the REQUEST FOR RECONSIDERATION OF THE RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF WYETH filed on May 18, 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 six hundred seventy-five (675) days.

On January 28, 2010, patentee submitted a petition under 37 CFR 1.705(d) and fee. On February 5, 2010, patentee filed a Request for Recalculation of Patent Term Adjustment in View of Wyeth. On March 15, 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 675 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 1030 days.

The Office notes that the decision of April 21, 2010, was issued in error as it accorded patentee 330 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 675 days. The 330 additional days of adjustment will be removed.

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

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **six hundred seventy-five (675)** days.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,625,924 B2

DATED : December 1, 2009

INVENTOR(S) : Truc Minh Nguyen

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 (1030) days

Delete the phrase "by 1030 days" and insert – by 675 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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SALTAMAR INNOVATIONS
1 MATHEWSON ROAD
BARRINGTON RI 02806

MAILED

SEP 29 2010

OFFICE OF PETITIONS

In re Patent No. 7,181,957	:	
Issue Date: February 27, 2007	:	
Application No. 11/313,029	:	NOTICE
Filed: December 19, 2005	:	
Attorney Docket No. 0328USDIV-BIODE	:	

This is a notice regarding your request, August 17, 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**.

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 file does not indicate a change of address has been submitted, although the address given on the request differs from the address of record. If appropriate, a 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.

Liana Walsh
Petitions Examiner
Office of Petitions

cc: VERN MAINE & ASSOCIATES
547 AMHERST STREET, 3RD FLOOR
NASHUA, NH 03063-4000

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : **5-4-11**

TO SPE OF : ART UNIT **3765**

SUBJECT : Request for Certificate of Correction for Appl. No.: **11313205** Patent No.: **7913322**

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: _____

/Gary L. Welch/
SPE

3765
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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Keusey & Associates, P.C.
420 Jericho Tpke.
Suite 324
Jericho NY 11753

MAILED
JAN 11 2012
OFFICE OF PETITIONS

In re Application of	:	
Brantley et al.	:	
Application No. 11/313252	:	
Filing or 371(c) Date: 12/19/2005	:	ON PETITION
Attorney Docket Number:	:	
ULTRP014	:	

This is a decision on the Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 C.F.R. § 1.137(b), filed December 5, 2011.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the final Office action, mailed March 11, 2011. 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 complete and proper reply having been received, the application became abandoned on June 12, 2011.

Applicant files the present petition and the response, a continuing (divisional) application, was filed December 5, 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 divisional application; (2) the petition fee; and (3) a proper statement of unintentional delay. Accordingly, the petition is granted.

This application is being revived for continuity purposes, and is again abandoned in favor of the continuing application, serial no. 13/310944, filed December 5, 2011.

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

/DLW/

Derek L. Woods
Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 03-20-12

TO SPE OF : ART UNIT 1625

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/313394 Patent No.: 7335667

CofC mailroom date: 03-0512

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Note: _____

Angela Green 571.272.9005
CofC Branch 703-756-1814

Thank You For Your Assistance

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

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

Comments: _____

/Janet L. Andres/ 1625

SPE **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20120420

DATE : April 20, 2012

TO SPE OF : ART UNIT 2617

SUBJECT : Request for Certificate of Correction on Patent No.: 7,602,745

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:

/JINSONG HU/
Supervisory Patent Examiner.Art Unit 2617

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED
OCT 18 2010
OFFICE OF PETITIONS

In re Patent No. 7,731,042	:	
Issue Date: June 8, 2010	:	
Application No. 11/313,490	:	ON PETITION
Filed: December 21, 2005	:	
Attorney Docket No. SEA0820P1560US (SC-228)	:	

This is a decision on the petition under 37 CFR 1.182, filed August 23, 2010, requesting issuance of a duplicate Letters Patent for the above-identified patent.

The petition is **GRANTED**.

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

A petition under 37 CFR 1.182 requires a fee of $400. As authorized this fee will be charged to petitioner's deposit account.

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

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

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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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. 7,551,925	:
Simongini et al.	: DECISION UPON REMAND AND
Issue Date: June 23, 2009	: RECONSIDERATION OF
Application No. 11/313,496	: PATENT TERM ADJUSTMENT
Filed: December 13, 2005	: AND NOTICE OF INTENT
Attorney Docket No. 10022/744	: TO ISSUE CERTIFICATE OF
Title: Unified Directory System	: CORRECTION
Including a Data Model For	:
Managing Access to	
Telecommunication Services	

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 seven hundred and ninety-seven (797) days.

The application is being forwarded to the Certificates Branch for issuance of a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by seven hundred and ninety-seven (797) 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: 7,551,925

DATED : June 23, 2009 **DRAFT**

INVENTOR(S): Simongini

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 605 days

Delete the phrase "by 605 days" and insert -- by 797 days--

Patent Term Adjustments

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

Application Number*: 11313496 Search | Explanation of PTA Calculation | Explanation of PTE Calculation

PTA Calculations for Application: 11313496

Application Filing Date	12/13/2005	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent	06/23/2009	Non-Overlapping USPTO Delays:	605
A Delays	605	PTO Manual Adjustment	192
B Delays	0	Applicant Delay (APPL)	0
C Delays	0	Total PTA (days)	797

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
59	05/03/2011		P028	Adjustment of PTA Calculation by PTO	192	0	
52	06/23/2009		PTAC	Patent Issue Date Used in PTA Calculation		0	
52.5	06/03/2009	12/13/2008	PTA36M	PTA 36 Months	0	0	
51	05/27/2009		EFDC	Export to Final Data Capture		0	
49	05/26/2009		D1935	Dispatch to FDC		0	
50	05/22/2009		FIDC	Finished Initial Data Capture		0	
48	05/06/2009		PILS	Application Is Considered Ready for Issue		0	
47	05/05/2009		REAS	Response to Reasons for Allowance		0	
46	05/05/2009		N084	Issue Fee Payment Verified		0	
45	05/05/2009		IFEE	Issue Fee Payment Received		0	
43	04/15/2009		MM327	Mail Miscellaneous Communication to Applicant		0	
44	04/13/2009		EIDC	Export to Initial Data Capture		0	
42	04/13/2009		M327	Miscellaneous Communication to Applicant - No Action Count		0	
40	04/08/2009		MN/=.	Mail Notice of Allowance		0	
39	04/08/2009		IREV	Issue Revision Completed		0	
38	04/07/2009		ACRE	Allowed Case Returned to the Examiner for Clerical Processing		0	
37	04/07/2009		DVER	Document Verification		0	
36	04/07/2009		N/=.	Notice of Allowance Data Verification Completed		0	
35	04/02/2009		EX.A	Examiner's Amendment Communication		0	
34	04/02/2009		CNTA	Allowability Notice		0	
33	02/12/2009		FWDX	Date Forwarded to Examiner		0	
32	01/09/2009		A...	Response after Non-Final Action		0	
31	10/10/2008	02/13/2007	MCTNF	Mail Non-Final Rejection	605	-1	
30	10/09/2008		CTNF	Non-Final Rejection		0	
23	03/10/2008		DOCK	Case Docketed to Examiner in GAU		0	
22	03/07/2008		DOCK	Case Docketed to Examiner in GAU		0	
21	03/07/2008		DOCK	Case Docketed to Examiner in GAU		0	
20	05/24/2007		PG-ISSUE	PG-Pub Issue Notification		0	
18	05/23/2006		DOCK	Case Docketed to Examiner in GAU		0	
17	05/19/2006		TSSCOMP	IFW TSS Processing by Tech Center Complete		0	
16	05/19/2006		DOCK	Case Docketed to Examiner in GAU		0	
24	05/15/2006		IDSC	Information Disclosure Statement considered		0	
19	05/15/2006		RQPR	Request for Foreign Priority (Priority Papers May Be Included)		0	
15	05/15/2006		RQPR	Request for Foreign Priority (Priority Papers May Be Included)		0	
14	05/15/2006		RCAP	Reference capture on IDS		0	
13.7	05/15/2006		M844	Information Disclosure Statement (IDS) Filed		0	
13	05/15/2006		WIDS	Information Disclosure Statement (IDS) Filed		0	
11	03/16/2006		WROIPE	Application Return from OIPE		0	
10	03/16/2006		COMP	Application Is Now Complete		0	
9	03/02/2006		ADDFLFEE	Additional Application Filing Fees		0	
8	03/02/2006		CORRDRW	Applicant has submitted new drawings to correct Corrected Papers problems		0	
7	02/02/2006		CPAP	Corrected Paper		0	
4	02/02/2006		COMP	Application Is Now Complete		0	
6	02/01/2006		ROIPE	Application Return TO OIPE		0	
5	02/01/2006		OIPE	Application Dispatched from OIPE		0	
12	01/25/2006		A.PE	Preliminary Amendment		0	
3	01/19/2006		L194	Cleared by OIPE CSR		0	
2	01/13/2006		SCAN	IFW Scan & PACR Auto Security Review		0	
1	12/13/2005		IEXX	Initial Exam Team nn		0	

Export to: Excel

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

JOANNE MARY FOBARE ROSSI
HERCULES INCORPORATED
HERCULES PLAZA
1313 NORTH MARKET STREET
WILMINGTON, DE 19894-0001

MAILED
APR 06 2012
OFFICE OF PETITIONS

In re Application of	:	
Robert A. Gelman, et al.	:	
Application No. 11/313,505	:	DECISION GRANTING PETITION
Filed: December 21, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. DKT/10488	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed April 5, 2012, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on March 12, 2012 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries 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 1741 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

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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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500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

MAILED

SEP 27 2010

OFFICE OF PETITIONS

In re Patent No. 7,668,270	:
Nguyen	: DECISION ON REQUEST FOR
Issue Date: February 23, 2010	: RECONSIDERATION OF
Application No. 11/313,531	: PATENT TERM ADJUSTMENT
Filed: December 20, 2005	: AND NOTICE OF INTENT
Attorney Docket No. 16914US01	: TO ISSUE CERTIFICATE OF
Title: METHOD AND SYSTEM FOR	: CORRECTION
PROGRAMMABLE FILTERING OFFSET	:

This is a decision on the "REQUEST FOR RECONSIDERATION OF DECISION ON REQUEST ROR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF WYETH" filed on June 11, 2010. This petition was filed within one month of a decision by the Office mailed on May 11, 2010 granting applicant's request for reconsideration of PTA. Patentee requests a patent term adjustment of 978, instead of the current patent term of 938 days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by nine hundred seventy-eight (978) days is **DISMISSED.**

Patentees contend that a 57-day reduction for the submission of an amendment after the mailing of the Notice of Allowance on December 29, 2009 should instead be a 17-day reduction.

Patentees' request for reconsideration of the 57-day reduction is untimely. The first request for reconsideration of the patent term adjustment was submitted on May 5, 2010, after two months from the issuance of the patent. The Request for Recalculation of Patent Term Adjustment in View of Wyeth was pursuant to delays under 35 U.S.C. 154(b)(2)(A). Requests that the USPTO recalculate the patent term adjustment for alleged errors other than that identified in Wyeth that should have been raised on application for patent term adjustment under 37 CFR 1.705(d) are untimely if not raised within two months of the date the patent issued.

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

The application is being forwarded to the Certificate of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **nine hundred thirty-eight (938)** 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.

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

Anthony Knight
Director
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,668,270 B2

DATED : February 23, 2010

INVENTOR(S) : UT T. Nguyen

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 (508) days

Delete the phrase "by 508 days" and insert – by 938 days--

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SpryIP, LLC LAN
5009 163rd PL SE
Bellevue, WA 98006

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DEC 08 2011

OFFICE OF PETITIONS

In re Application of
Michael J.G. Lewis
Application No. 11/313,547
Filed: December 20, 2005
Attorney Docket No. LAN0049US

DECISION ON PETITION

This is a decision on the petition, filed November 7, 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 Notice of Allowance and Fee(s) Due (Notice) mailed July 15, 2011, which set a three (3) months shortened statutory period for reply. Accordingly, a reply was due on or before October 17, 2011.

Petitioner states that a timely reply was deposited with the United States Postal Service on October 17, 2011. Petitioner has submitted a copy of the previously mailed correspondence, which bears a certificate of mailing dated October 17, 2011, 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 July 15, 2011, is hereby withdrawn and the application restored to pending status.

The copy of the reply received with the petition will be accepted in place of the reply shown to have been mailed (or transmitted by facsimile) on October 17, 2011[1].

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

Andrea Smith
Petitions Examiner
Office of Petitions

[1] If petitioner knows of some reason why this application should be abandoned, he must notify the Office immediately.

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

MAILED
AUG 26 2011
OFFICE OF PETITIONS

In re Patent No. 8,001,478 :
Issued: 08/16/2011 :
Application No. 11/313,552 : NOTICE
Filed: 12/20/2005 :
Attorney Docket No. BIZ/01-0008.DIV :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed August 4, 2011.

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

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

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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SEP 30 2010

TECHNOLOGY CENTER 2100

Thomas Theodosios
111 Corning Road
Ste 220
Cary, North Carolina 27518

In re Application of:
Robert P. MORRIS
Appl. No.: 11/313573
Filed: December 21, 2005
For: METHODS, SYSTEMS, AND COMPUTER PROGRAM PRODUCTS FOR INSTALLING AN APPLICATION FROM ONE PEER TO ANOTHER INCLUDING APPLICATION CONFIGURATION SETTINGS AND DATA

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 July 16, 2010.

The petition is **GRANTED**.

Pursuant to applicant's request filed on July 16, 2010, action by the Office is suspended on this application under 37 CFR § 1.103(a) for a period of three (3) months from the mailing date of this letter. At the end of this period, applicant is required to notify the examiner and request continuance of prosecution or a further suspension. See MPEP § 709.

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

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

/Gail Hayes/
Gail Hayes, 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.
11/313,573	12/21/2005	Robert P. Morris	1361/US	6569

52354 7590 09/30/2010
SCENERA RESEARCH, LLC
JENKINS, WILSON, TAYLOR & HUNT, P.A.
5400 Trinity Road
Suite 303
Raleigh, NC 27607

EXAMINER
NELSON, CHRIS A

ART UNIT	PAPER NUMBER
2193	

MAIL DATE	DELIVERY MODE
09/30/2010	PAPER

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

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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/313,573	12/21/2005	Robert P. Morris	1361/US	6569

52354 7590 01/12/2011
SCENERA RESEARCH, LLC
JENKINS, WILSON, TAYLOR & HUNT, P.A.
5400 Trinity Road
Suite 303
Raleigh, NC 27607

EXAMINER
NELSON, CHRIS A

ART UNIT	PAPER NUMBER
2193	

MAIL DATE	DELIVERY MODE
01/12/2011	PAPER

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Thomas Theodosios
SCENERA RESEARCH, LLC
JENKINS, WILSON, TAYLOR & HUNT, P.A.
5400 TRINITY ROAD
SUITE 303
RALEIGH, NC 27607

January 11, 2011

In re Application of:
Robert P. MORRIS
Appl. No.: 11/313573
Filed: December 21, 2005
For: METHODS, SYSTEMS, AND COMPUTER PROGRAM PRODUCTS FOR INSTALLING AN APPLICATION FROM ONE PEER TO ANOTHER INCLUDING APPLICATION CONFIGURATION SETTINGS AND DATA

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 July 16, 2010.

The petition is **GRANTED**.

Pursuant to applicant's request filed on July 16, 2010, action by the Office is suspended on this application under 37 CFR § 1.103(a) for a period of three (3) months from the mailing date of this letter. At the end of this period, applicant is required to notify the examiner and request continuance of prosecution or a further suspension. See MPEP § 709.

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

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

/Gail Hayes/
Gail Hayes, 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.
11/313,573	12/21/2005	Robert P. Morris	1361/US	6569

52354 7590 10/21/2011
SCENERA RESEARCH, LLC
JENKINS, WILSON, TAYLOR & HUNT, P.A.
5400 Trinity Road
Suite 303
Raleigh, NC 27607

EXAMINER
NELSON, CHRIS A

ART UNIT	PAPER NUMBER
2193	

MAIL DATE	DELIVERY MODE
10/21/2011	PAPER

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

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Thomas Theodosios
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5400 TRINITY ROAD
SUITE 303
RALEIGH, NC 27607

October 20, 2011

In re Application of:
Robert P. MORRIS
Appl. No.: 11/313573
Filed: December 21, 2005
For: METHODS, SYSTEMS, AND COMPUTER PROGRAM PRODUCTS FOR INSTALLING AN APPLICATION FROM ONE PEER TO ANOTHER INCLUDING APPLICATION CONFIGURATION SETTINGS AND DATA

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 12, 2011.

The petition is **GRANTED**.

Pursuant to applicant's request filed on September 12, 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 (or name of the TQAS) whose telephone number is (571) 272-3591.

/Gail Hayes/
Gail Hayes, 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.
11/313,573	12/21/2005	Robert P. Morris	I361/US	6569

52354 7590 01/26/2012
SCENERA RESEARCH, LLC
JENKINS, WILSON, TAYLOR & HUNT, P.A.
5400 Trinity Road
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EXAMINER
BULLOCK JR, LEWIS ALEXANDER

ART UNIT	PAPER NUMBER
2193	

MAIL DATE	DELIVERY MODE
01/26/2012	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Theodosios Thomas
SCENERA RESEARCH, LLC
5400 Trinity Road
Suite 303
Raleigh, North Carolina 27607

In re Application of: Robert P. MORRIS Appl. No.: 11/313,573 Filed: December 21, 2005 For: METHODS, SYSTEMS, AND COMPUTER PROGRAM PRODUCTS FOR INSTALLING AN APPLICATION FROM ONE PEER TO ANOTHER INCLUDING APPLICATION CONFIGURATION SETTINGS AND DATA	DECISION ON PETITION UNDER 37 CFR § 1.103(a)

This is a decision on the petition for suspension of prosecutions under 37 CFR § 1.103(a) filed on 23 January 2012.

The petition is **GRANTED**.

Pursuant to applicant's requests filed on 23 January 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

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: PAT 2534-2	
Application Number: 11/313,774	Filing Date (or 371(b) or (f) Date): February 23, 2010
Patent Number: 7,668,982	Issue Date: February 23, 2010
First Named Inventor: Jeroen STROOBACH et al.	
Title: SYSTEM AND METHOD FOR SYNCHRONOUS PROCESSING OF MEDIA DATA ON AN ASYNCHRONOUS PROCESSOR	

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 /Leslie A. Kinsman/	Date August 23, 2010
Name (Print/Typed) Leslie A. Kinsman	Registration Number 45,291

***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.

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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BORDEN LADNER GERVAIS LLP
Gail C. Silver
1100-100 QUEEN ST
OTTAWA, ON K1P 1J9
CANADA

Mail Date: 09/13/2010

Applicant	: Jeroen Stroobach	: DECISION ON REQUEST FOR
Patent Number	: 7668982	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/313,774	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/22/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **726** 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.: _06032011_

DATE : June 14, 2011

TO SPE OF : ART UNIT 2885 SPE

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/313,819 Patent No.: 7,407,311 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 changes to claim 1 be approved as requested by applicant?

See COCIN dated 6-3-2011

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: The proposed change to reorder claim 1 is approved.

SPE__/Jong-Suk (James) Lee/__ **Art Unit _2885__**

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Alexandria, VA 22313-1450
www.uspto.gov

BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE CA 94085-4040

MAILED
OCT 07 2011
OFFICE OF PETITIONS

In re Application of	:	
Tibor Kiss et al	:	
Application No. 11/313,861	:	DECISION GRANTING PETITION
Filed: December 20, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 2590P080	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 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 September 8, 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 3752 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

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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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SCHNECK & SCHNECK
P.O. BOX 2-E
SAN JOSE CA 95109-0005

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NOV 28 2011

OFFICE OF PETITIONS

In re Application of
Tsu-Chang Lee
Application No. 11/314,031
Filed: December 20, 2005
Attorney Docket No.: TCL-002

ON PETITION

This is a decision on the petition filed November 17, 2011 under 37 CFR 1.137(b)[1], to revive the above-identified application.

The petition is **GRANTED**.

A Restriction Requirement mailed on March 31, 2009 set the longer of one month or thirty days as the period for reply. No response to the March 31, 2009 Restriction Requirement having been timely filed, the application became abandoned May 4, 2009. Accordingly, a Notice of Abandonment was mailed October 26, 2009.

The petition fee in the amount of $930.00 has been charged to the credit card provided.

The response to the Restriction Requirement filed November 17, 2011 will be referred to Technology Center 2167 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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[1]Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Director may require additional information where there is a question whether the delay was unintentional; and

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

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/314,031	12/20/2005	2167	825		33	3

CONFIRMATION NO. 5452

CORRECTED FILING RECEIPT

3897
SCHNECK & SCHNECK
P.O. BOX 2-E
SAN JOSE, CA 95109-0005

OC000000051139746

Date Mailed: 11/25/2011

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

Applicant(s)

Tsu-Chang Lee, Mountain View, CA;

Power of Attorney: The patent practitioners associated with Customer Number 03897

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/638,929 12/22/2004

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: 01/30/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/314,031**

Projected Publication Date: Not Applicable

Non-Publication Request: No

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

Title

Object-based information storage, search and mining system method

Preliminary Class

707

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

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

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

NOT GRANTED

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

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Cantor Colburn LLP - Fox Entertainment Group
20 Church Street
22nd Floor
Hartford CT 06103

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DEC 07 2010

OFFICE OF PETITIONS

In re Application of :
Aydar et al. :
Application No. 11/314, 168 : DECISION ON PETITION
Filed: December 20, 2005 :
Attorney Dkt. No.: MYS1438USP2 :

This is a decision on the petition filed October 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 to withdraw the holding of abandonment is **Dismissed**.

Any request for reconsideration should be filed within **TWO MONTHS** of the mailing date of this decision in order to be considered timely. 37 CFR 1.181(f). This time period may not be extended pursuant to 37 CFR 1.136.

This above-identified application became abandoned for failure to timely file a reply to a non-final Office action mailed June 8, 2009. The Office Action set a three (3) month shortened statutory period for reply. No timely extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on September 9, 2009. A Notice of Abandonment was mailed on June 17, 2010.

Petitioner contends that a proper reply was filed on July 8, 2010. Petitioner further states that he was informed by the examiner that a response should be filed by July 8, 2010, the seven month deadline from the Notice of Appeal.

Petitioner's argument has been considered but deemed unpersuasive. A review of the record shows that in response to the non-final Office rejection of June 8, 2009, a notice of appeal and three month extension of time were filed on December 8, 2009. However, pursuant to 37 CFR 41.31(a) (1) an appeal was not an appropriate response, as no claims in the instant application had been rejected twice. The submission of the improper notice of appeal did not toll the time period to submit a proper reply to the non-final Office action. The maximum period for reply to the Office action expired on December 9, 2009. Since the time period for extension of time for a response to the non-final Office action is governed by statue 35 USC 133, the maximum extendable reply period cannot exceed six months.

Lastly, pursuant to 37 CFR 1.2, all business with the Patent and Trademark Office should be transacted in writing. 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. Thus an allegation that petitioners were informed via telephone that a response could be filed on July 8, 2010, cannot be relied upon in an effort to withdraw the holding of abandonment.

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

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

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(571) 273-8300
By delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office Customer Service Window, Randolph Building 401 Dulany Street Alexandria, VA 22314

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

Charlema Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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20 Church Street
22nd Floor
Hartford CT 06103

MAILED
MAR 01 2011
OFFICE OF PETITIONS

In re Application of :
Aydar et al. :
Application No. 11/314,168 : DECISION ON PETITION
Filed: December 20, 2005 :
Attorney Dkt. No.: MYS1438USP2 :

This is a decision on the petition filed under 37 CFR 1.137(b) in the above-identified application filed on January 11, 2011.

The petition is **GRANTED.**

This application became abandoned for failure to timely submit a reply to the non-final Office action mailed on June 8, 2009. The Notice set an extendable three-month reply period of September 8, 2009. A three month extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, this application became abandoned on December 9, 2009. A Notice of Abandonment was mailed on September 17, 2010. A petition filed under 37 CFR 1.181 was dismissed on December 6, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment (2) the petition fee of $1620.00, 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 3621 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

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

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OFFICE OF PETITIONS

In re Application of	:	
Froim et al.	:	
Application No. 11/314186	:	ON APPLICATION FOR
Filing or 371(c) Date: 12/20/2005	:	PATENT TERM ADJUSTMENT
Atty Docket No.:	:	
M0656.70111US01	:	

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT, filed January 24, 2011. Applicant requests a minimum Patent Term Adjustment of 310 days, instead of 270 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction solely on the basis that the Office will take in excess of three years to issue this patent. The application for patent term adjustment is properly treated under 37 C.F.R. § 1.705(b).

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

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

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

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

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

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

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

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

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

/DLW/

Derek L. Woods
Attorney
Office of Petitions

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

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ARENT FOX LLP
1050 CONNECTICUT AVENUE, N.W.
SUITE 400
WASHINGTON, DC 20036

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FEB 01 2011

OFFICE OF PETITIONS

In re Application of
Kenji Ichikawa, et al.
Application No. 11/314,204
Filed: February 22, 2005
Attorney Docket No. 107348-00555

DECISION ON PETITION

This is a decision on the petition, filed March 14, 2007, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely pay the issue and publication fees on or before February 2, 2006, as required by the Notice of Allowance and Fee(s) Due (Notice), mailed November 2, 2006.

Petitioner asserts that the Notice dated November 2, 2006 was not received.

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

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

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).
The petition satisfies the above-stated requirements. Accordingly, the application was not abandoned in fact.

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

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

This application is being referred to the Technology Center AU 3747 technical support staff for **re-mailing** the Notice of Allowability and the Notice of Allowance and Fee(s) Due of November 2, 2006. The period for paying the issue and publication fees and submitting corrected drawings will be reset to expire three (3) months from the date the Notices are re-mailed. This period is not extendable under the provisions of 37 CFR 1.136.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

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KUSNER & JAFFE
HIGHLAND PLACE SUITE 310
6151 WILSON MILLS ROAD
HIGHLAND HEIGHTS, OH 44143

Mail Date: 09/07/2010

Applicant	: Stephen Piche	: DECISION ON REQUEST FOR
Patent Number	: 7599750	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/314,214	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/21/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **547** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

INTERNATIONAL BUSINESS MACHINES CORPORATION
Richard Lau
IPLAW DEPARTMENT / Bldg 008-2
2455 SOUTH ROAD - MS P386
POUGHKEEPSIE NY 12601

MAILED
NOV 21 2011
OFFICE OF PETITIONS

In re Application of	:	
Casimer M. Decusatis, et al.	:	
Application No. 11/314,260	:	DECISION GRANTING PETITION
Filed: December 21, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. POU920050165US1	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, November 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 November 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 Terri Johnson at (571) 272-2991.

This application is being referred to Technology Center AU 2878 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Nixon Peabody LLP
P.O. Box 60610
Palo Alto CA 94306

MAILED
JAN 31 2012
OFFICE OF PETITIONS

In re Application of
Kosnik, et al.
Application No. 11/314,281
Filed: December 22, 2005
Attorney Docket No. 437783-007

: 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 January 20, 2012, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of priority to a prior-filed provisional applications.

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.

This pending nonprovisional application was filed on December 22, 2005, within twelve months of the filing date of the prior-filed provisional Application No. 60/638,199, filed December 23, 2004, and prior-filed provisional Application No. 60/697,954, filed July 12, 2005, and for which priority is claimed. A reference to the prior-filed provisional applications has been included in an amendment to the first sentence of the specification following the title.

However, the amendment is not acceptable as drafted since it improperly incorporates by reference prior-filed Application No. 60/697,954. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date. See 35 U.S.C. § 132(a). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 119(e) after the filing date of the application, the amendment would not be proper.

When a benefit claim under 35 U.S.C. § 119(e) is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. See, Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). See, MPEP §§ 201.06(c) and 608.04(b).

Accordingly, before the petition under 37 CFR 1.78(a)(6) can be granted, a renewed petition under 37 CFR 1.78(a)(6) and either an Application Data Sheet or a substitute amendment (complying with 37 CFR 1.121 and 37 CFR 1.76(b)(5)) deleting the incorporation by reference statement, are required.

Receipt is acknowledged of the fee required by 37 CFR 1.78(a)(6)(ii).

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

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

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

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

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

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAILED
MAR 13 2012
OFFICE OF PETITIONS

Nixon Peabody LLP
P.O. Box 60610
Palo Alto CA 94306

In re Application of	:
Kosnik, et al.	:
Application No. 11/314,281	: DECISION ON PETITION
Filed: December 22, 2005	: UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 437783-007	:

This is a decision on the renewed petition under 37 CFR 1.78(a)(6), filed February 17, 2012, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of priority to a prior-filed provisional applications.

The petition is **GRANTED.**

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

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

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

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C.

§119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

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

The application is being forwarded to Technology Center AU 1651 for consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to the prior-filed provisional application.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3205. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

Attachment: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/314,281	12/22/2005	1651	1390	437783-007	49	4

CONFIRMATION NO. 8704

CORRECTED FILING RECEIPT

46188
Nixon Peabody LLP
P.O. Box 60610
Palo Alto, CA 94306

OC000000053072776

Date Mailed: 03/12/2012

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)

Paul E. Kosnik, Honolulu, HI;
Christopher T. England, Kapolei, HI;
Robert G. Dennis, Chapel Hill, NC;
Stuart K. Williams, Tucson, AZ;

Power of Attorney:
Christopher Ogden--44984

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/638,199 12/23/2004
and claims benefit of 60/697,954 07/12/2005

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: 03/10/2012

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/314,281**

Projected Publication Date: Not Applicable

Non-Publication Request: No

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

Title

CELL SODDING METHOD AND APPARATUS

Preliminary Class

435

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

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

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

NOT GRANTED

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110511

DATE : May 11, 2011

TO SPE OF : ART UNIT 3655

SUBJECT : Request for Certificate of Correction on Patent No.: 7,621,384

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

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-910
Palm location **7590** - Tel. No. 305-8201

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

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

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

☒ **Approved** **All** changes apply.

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

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

Comments:

SPE: /David D. Le/ **Art Unit** 3655

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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INTERNATIONAL BUSINESS MACHINES CORPORATION
Richard Lau
IPLAW DEPARTMENT / Bldg 008-2
2455 SOUTH ROAD - MS P386
POUGHKEEPSIE NY 12601

MAILED
NOV 21 2011
OFFICE OF PETITIONS

In re Application of	:	
Casimer M. Decusatis, et al.	:	
Application No. 11/314,327	:	DECISION GRANTING PETITION
Filed: December 21, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. POU920050164US1	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, November 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 November 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 Terri Johnson at (571) 272-2991.

This application is being referred to Technology Center AU 2878 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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IPLAW DEPARTMENT / Bldg 008-2
2455 SOUTH ROAD - MS P386
POUGHKEEPSIE NY 12601

MAILED
NOV 21 2011
OFFICE OF PETITIONS

In re Application of	:	
Casimer M. Decusatis, et al.	:	
Application No. 11/314,379	:	DECISION GRANTING PETITION
Filed: December 21, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. PO920050162US1	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, November 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 November 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 should be directed to Terri Johnson at (571) 272-2991.

This application is being referred to Technology Center AU 2622 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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INTERNATIONAL BUSINESS MACHINES CORPORATION
Richard Lau
IPLAW DEPARTMENT / Bldg 008-2
2455 SOUTH ROAD - MS P386
POUGHKEEPSIE NY 12601

MAILED
NOV 21 2011
OFFICE OF PETITIONS

In re Application of	:	
Casimer M. Decusatis, et al.	:	
Application No. 11/314,383	:	DECISION GRANTING PETITION
Filed: December 21, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. POU920050163US1	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, November 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 November 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 Terri Johnson at (571) 272-2991.

This application is being referred to Technology Center AU 2878 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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RICHARD LAU
IPLAW DEPARTMENT/BLDG 008-2
2455 SOUTH ROAD – MS P386
POUGHKEEPSIE NY 12601

MAILED

NOV 23 2011

OFFICE OF PETITIONS

In re Application of	:	
Casimer M. Decusatis et al	:	
Application No. 11/314,389	:	DECISION GRANTING PETITION
Filed: December 21, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. POU920050181US1	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed November 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 November 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 2878 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

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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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INTERNATIONAL BUSINESS MACHINES CORPORATION
Richard Lau
IPLAW DEPARTMENT / Bldg 008-2
2455 SOUTH ROAD - MS P386
POUGHKEEPSIE NY 12601

MAILED
NOV 21 2011
OFFICE OF PETITIONS

In re Application of	:	
Casimer M. Decusatis, et al.	:	
Application No. 11/314,419	:	DECISION GRANTING PETITION
Filed: December 21, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. PO920050166US1	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, November 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 November 14, 2011 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2622 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.*

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 10/22/11

TO SPE OF : ART UNIT 1624

SUBJECT : Request for Certificate of Correction for Appl. No.: 11314470 Patent No.: 7635699

CofC mailroom date: 10/03/11

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Note: **Should the changes to claim 1 be approved?**

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

❑ **Approved** — **All** changes apply.

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

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

Comments: _____

_____

_____

_____

_____

1624

SPE **Art Unit**

JAMES O. WILSON
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

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.
11/314,565	12/21/2005	Gurjit K. Khurana Hershey	070248.71	7356

27805 7590 01/31/2011
THOMPSON HINE L.L.P.
Intellectual Property Group
P.O. BOX 8801
DAYTON, OH 45401-8801

EXAMINER
KIM, YOUNG J

ART UNIT	PAPER NUMBER
1637	

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):

ipgroup@thompsonhine.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

January 27, 2011

THOMPSON HINE L.L.P.
Intellectual Property Group
P.O. BOX 8801
DAYTON OH 45401-8801

In re Application of	:	
Gurjit K. Khurana Hershey, et al	:	**DECISION ON PETITION**
Application No. 11314565	:	
Filed: 12/21/05	:	
Attorney Docket No. **070248.71**	:	

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 21, 2005.

The petition is **DISMISSED.**

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

1. The fee set forth under 37 C.F.R. 1.17(h),
2. Three (3) sets of the color drawings in question, (One (1) set for EFW filings, and
3. The specification containing the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings

"The patent or application file contains at least one drawing executed in color. Copies of this patent or patent application publication with color drawing(s) will be provided by the Office upon request and payment of the necessary fee."

The petition did not meet the following requirement(s). 1 ☐ 2 ☐ 3 ☑

A renewed petition filed under 37 C.F.R. 1.84 (a) (2) must be filed within TWO (2) MONTHS of this decision. If a renewed petition is not filed within the TWO (2) Months of this decision the drawings will be printed in black and white.

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

/Laura L. Feldman/
Quality Control Specialist
Office of Data Management
Publications Branch

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/314,565	12/21/2005	Gurjit K. Khurana Hershey	070248.71	7356

7590 02/17/2011

THOMPSON HINE L.L.P.
Intellectual Property Group
P.O. BOX 8801
DAYTON, OH 45401-8801

EXAMINER
KIM, YOUNG J

ART UNIT	PAPER NUMBER
1637	

NOTIFICATION DATE	DELIVERY MODE
02/17/2011	ELECTRONIC

ACKNOWLEDGEMENT OF REQUEST

Notice of Allowance/Allowability Mailed

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

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

FORM PTOM327-5 (Rev. 02/08)

UNITED STATES PATENT AND TRADEMARK OFFICE

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

February 15, 2011

THOMPSON HINE L.L.P.
Intellectual Property Group
P.O. BOX 8801
DAYTON OH 45401-8801

In re Application of	:	
Khurana Hershey, Gurjit K.	:	**DECISION ON PETITION**
Application No. 11/314,565	:	
Filed: 12/21/2005	:	***ACCEPTANCE OF COLOR***
Attorney Docket No. 070248.71	:	***DRAWINGS***

This is a decision on the Petition to Accept Color Drawings under 37 C.F.R 1.84 (a) (2), received in the United States Patent and Trademark Office (USPTO) February 03, 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.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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SANDIA CORPORATION
P O BOX 5800
MS-0161
ALBUQUERQUE NM 87185-0161

MAILED
FEB 22 2011
OFFICE OF PETITIONS

In re Application of	:	
VECELLIO-NONE, et al	:	
Application No. 11/314,625	:	DECISION ON PETITION
Filed: December 21, 2005	:	
Attorney Docket No. 1759.214	:	

This is a decision on the petition under 37 CFR 1.182, filed October 10, 2006, to change the order of the names of the inventors.

The petition is **GRANTED**.

Office records have been corrected to reflect the change in the order of the named inventors. A corrected Filing Receipt, which sets forth the desired order of the named inventors, accompanies this decision on petition.

The petition fee of $400 under 37 CFR 1.182 has been paid.

This application is being referred to Technology Center AU 3771 for further processing.

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

Thurman K. Page
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/314,625	12/21/2005	3771	565	1759.214	9	1

CONFIRMATION NO. 6892

CORRECTED FILING RECEIPT

23405
HESLIN ROTHENBERG FARLEY & MESITI PC
5 COLUMBIA CIRCLE
ALBANY, NY 12203

OC000000046054578

Date Mailed: 02/16/2011

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

Applicant(s)

Laurent Vecellio-None, Chambray Les Tours, FRANCE;
Michel Massardier, Saint Etienne, FRANCE;
Gilles Chantrel, Saint Etienne, FRANCE;

Assignment For Published Patent Application

LA DIFFUSION TECHNIQUE FRANCAISE, Saint-Etienne, FRANCE

Power of Attorney:

Robert Heslin--24778
Jeffrey Rothenberg--26429
Kevin Radigan--31789
Philip Hansen--32700
Nicholas Mesiti--32782
Blanche Schiller--35670
David Pascarella--36632
John Pietrangelo--39331
Victor Cardona--44589

Domestic Priority data as claimed by applicant

Foreign Applications (You may be eligible to benefit from the **Patent Prosecution Highway** program at the USPTO. Please see http://www.uspto.gov for more information.)
FRANCE 0413784 12/21/2004

If Required, Foreign Filing License Granted: 01/30/2006
The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/314,625**
Projected Publication Date: Not Applicable
Non-Publication Request: No
Early Publication Request: No

** SMALL ENTITY **

Title

Aerosol transfer device for medical aerosol generators or medical aerosol generator systems

Preliminary Class

128

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where

the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

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

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

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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HESLIN ROTHBERG FARLEY & MESITI PC
5 COLUMBIA CIRCLE
ALBANY NY 12203

MAILED
MAR 16 2011
OFFICE OF PETITIONS

In re Application of	:	
VECELLIO-NONE, et al	:	**CORRECTED**
Application No. 11/314,625	:	DECISION ON PETITION
Filed: December 21, 2005	:	
Attorney Docket No. 1759.214	:	

This is a decision on the petition under 37 CFR 1.182, filed October 10, 2006, to change the order of the names of the inventors.

The petition is **GRANTED**.

Office records have been corrected to reflect the change in the order of the named inventors. A corrected Filing Receipt, which sets forth the desired order of the named inventors, accompanies this decision on petition.

The petition fee of $400 under 37 CFR 1.182 has been paid.

This application is being referred to Technology Center AU 3771 for further processing.

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

Thurman K. Page
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/314,625	12/21/2005	3771	565	1759.214	9	1

CONFIRMATION NO. 6892

CORRECTED FILING RECEIPT

23405
HESLIN ROTHENBERG FARLEY & MESITI PC
5 COLUMBIA CIRCLE
ALBANY, NY 12203

OC000000046054578

Date Mailed: 02/16/2011

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

Applicant(s)

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Gilles Chantrel, Saint Etienne, FRANCE;

Assignment For Published Patent Application

LA DIFFUSION TECHNIQUE FRANCAISE, Saint-Etienne, FRANCE

Power of Attorney:

Robert Heslin--24778
Jeffrey Rothenberg--26429
Kevin Radigan--31789
Philip Hansen--32700
Nicholas Mesiti--32782
Blanche Schiller--35670
David Pascarella--36632
John Pietrangelo--39331
Victor Cardona--44589

Domestic Priority data as claimed by applicant

Foreign Applications (You may be eligible to benefit from the **Patent Prosecution Highway** program at the USPTO. Please see http://www.uspto.gov for more information.)
FRANCE 0413784 12/21/2004

If Required, Foreign Filing License Granted: 01/30/2006
The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/314,625**
Projected Publication Date: Not Applicable
Non-Publication Request: No
Early Publication Request: No

** SMALL ENTITY **

Title

Aerosol transfer device for medical aerosol generators or medical aerosol generator systems

Preliminary Class

128

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.

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Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

MAILED

MAR 18 2011

OFFICE OF PETITIONS

In re Application of :
Zhong et al. :
Application No. 11/314,680 :
Filed: December 20, 2005 :
Attorney Dkt. No. 16904US01 :
For: METHOD AND SYSTEM FOR :
CONTENT ADAPTIVE ANALOG VIDEO :
NOISE DETECTION :

ON APPLICATION FOR
PATENT TERM ADJUSTMENT

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 February 10, 2011. This request is properly treated under 37 CFR 1.705(b). Applicants request that the determination of patent term adjustment be corrected from nine hundred forty (940) days to one thousand four hundred nineteen (1,419) days. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

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

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

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

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

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

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

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months

---

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

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

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

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

Charlema Grant
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SEP 13 2010

OFFICE OF PETITIONS

LUNDBECK RESEARCH USA, INC.
ATTENTION: STEPHEN G. KALINCHAK, LEGAL
215 COLLEGE ROAD
PARAMUS NJ 07652

In re Patent No. 7,563,908
Issued: July 21, 2009
Application No. 11/314,702
Filed: December 21, 2005
Attorney Docket No. 472-US-PCT

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

This is a decision on the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT filed on July 17, 2009, requesting that the patent term adjustment indicated on the above-identified patent be corrected from 78 days to 302 days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by two hundred ninety-one (291) days is **GRANTED to the extent indicated herein**.

At the outset, patentees have miscalculated the total patent term examination. It is undisputed that the period of examination delay, "A" delay", pursuant to 37 CFR 1.702(a)(1) and (a)(2) is 190 + 73 days and the "B" delay period, the over three year period, pursuant to 37 CFR 1.702(b), is 212 days. However, patentees argue that the Applicant delay is 173 days.

A review of the record confirms however that an additional period of reduction should be entered for applicant's failure to engage pursuant to 37 CFR 1.704(c)(10). A Notice of Allowance was mailed on February 3, 2009. Patentees filed a Supplemental Application Data Sheet (ADS) on March 13, 2009. The filing of the Supplemental Application Data Sheet (ADS) after the mailing of the Notice of Allowance on February 3, 2009 constituted a failure to engage pursuant to 37 CFR 1.704(c)(10). This period is 11 days, counting the number of days in the period beginning on March 13, 2009 and ending on March 23, 2009, the date of mailing of a communication in response to the Supplemental Application Data Sheet (ADS).

As such, the patent term adjustment is 291 days (263 plus 212 minus 184 days applicant delay), not 302 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 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 ninety-one (291)** days.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,563,908 B2

DATED : July 21, 2009

INVENTOR(S) : Jan Kehler

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 (78) days

Delete the phrase "by 78 days" and insert – by 291 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAR 15 2011

OFFICE OF PETITIONS

LUNDBECK RESEARCH USA, INC.
ATTENTION: STEPHEN G. KALINCHAK, LEGAL
215 COLLEGE ROAD
PARAMUS NJ 07652

In re Patent No. 7,563,908
Issued: July 21, 2009
Application No. 11/314,702
Filed: December 21, 2005
Attorney Docket No. 472-US-PCT

This is a decision on the RESPONSE TO DECISION ON REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT, filed on October 6, 2010, requesting that the patent term adjustment indicated on the above-identified patent be corrected from 291 days to 302 days.

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

On July 1, 2009, patentee filed a REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT. On September 13, 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 291 days.

Patentee argues that a period of 11 days should not be charged Applicant for the filing of the Supplemental Application Data Sheet, which was filed to change an inventor's address. Patentee argues that although the filing of a paper to change an address is not mentioned in 37 C.F.R. § 1.704(c)(10), such a filing is specifically addressed in the section of MPEP 2732 that clarifies the types of papers filed after allowance that are not considered to be a failure to engage in reasonable efforts to conclude processing or examination of an application under 37 C.F.R. § 1.704(c)(10), thus the patent is entitled to 302 days of PTA.

Patentee's argument has been considered but is not persuasive. The change of address was filed after the mailing of the Notice of Allowance and thus is subject to 37 C.F.R. § 1.704(c)(10). Patentee is advised that MPEP 2732 applies to changes to correspondence addresses, not changes to inventor information. As such, the patent term adjustment is 291 days as previously indicated. Accordingly, patentees are given

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

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **two hundred ninety-one (291)** days.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,563,908 B2

DATED : July 21, 2009

INVENTOR(S) : Jan Kehler

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 (78) days

Delete the phrase "by 78 days" and insert – by 291 days--

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LUNDBECK RESEARCH USA, INC.
ATTENTION: STEPHEN G. KALINCHAK, LEGAL
215 COLLEGE ROAD
PARAMUS NJ 07652

MAILED

JUN 17 2011

OFFICE OF PETITIONS

In re Patent No. 7,563,908
Issued: July 21, 2009
Application No. 11/314,702
Filed: December 21, 2005
Attorney Docket No. 472-US-PCT

: DECISION ON REQUEST FOR
: RECONSIDERATION OF
: PATENT TERM ADJUSTMENT

This is a decision on the RESPONSE TO DECISION ON REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT, filed on April 14, 2011, requesting that the patent term adjustment indicated on the above-identified patent be corrected from 291 days to 302 days.

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

On July 1, 2009, patentee filed a REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT. On September 13, 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 291 days. Patentee argued in a petition filed October 6, 2010 that a period of 11 days should not be charged Applicant for the filing of the Supplemental Application Data Sheet, which was filed to change an inventor's address. Patentee argued that although the filing of a paper to change an address is not mentioned in 37 C.F.R. § 1.704(c)(10), such a filing is specifically addressed in the section of MPEP 2732 that clarifies the types of papers filed after allowance that are not considered to be a failure to engage in reasonable efforts to conclude processing or examination of an application under 37 C.F.R. § 1.704(c)(10), thus the patent is entitled to 302 days of PTA.

Patentee's argument was considered but not found to be persuasive and thus the petition was dismissed in a decision mailed March 15, 2011 because, the change of address was filed after the mailing of the Notice of Allowance and thus is subject to 37 C.F.R. § 1.704(c)(10). Patentee was advised that MPEP 2732 applies to changes to correspondence addresses, not changes to inventor information.[1]

---

[1] 37 CFR § 1.704(c)(10) provides that:

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

The Supplemental Application Data Sheet filed to change the residential address for an inventor is not a paper which falls within the previously identified "Change of Address" exception. Patentee's request has been re-considered. As no new arguments have been presented, the patent term adjustment is 291 days as previously indicated.

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

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **two hundred ninety-one (291)** days.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

MPEP 2732:

37 CFR 1.704(c)(10) establishes submission of an amendment under 37 CFR 1.312 or other paper after a notice of allowance has been given or mailed as a circumstance that constitutes a failure of an applicant to engage in reasonable efforts to conclude processing or examination of an application. The submission of amendments (or other papers) after an application is allowed may cause substantial interference with the patent issue process.

Certain papers filed after allowance are not considered to be a failure to engage in reasonable efforts to conclude processing or examination of an application. See *Clarification of 37 CFR 1.704(c)(10) – Reduction of Patent Term Adjustment for Certain Types of Papers Filed After a Notice of Allowance has been Mailed*, 1247 Off. Gaz. Pat. Office 111 (June 26, 2001). The submission of the following papers after a "Notice of Allowance" is not considered a failure to engage in reasonable efforts to conclude processing or examination of an application: (1) Fee(s) Transmittal (PTOL-85B); (2) Power of Attorney; (3) Power to Inspect; (4) Change of Address; (5) Change of Status (small/not small entity status); (6) a response to the examiner's reasons for allowance or a request to correct an error or omission in the "Notice of Allowance" or "Notice of Allowability;" and (7) letters related to government interests (e.g., those between NASA and the Office). Papers that will be considered a failure to engage in reasonable efforts to conclude processing or examination of an application include: (1) a request for a refund; (2) a status letter; (3) amendments under 37 CFR 1.312; (4) late priority claims; (5) a certified copy of a priority document; (6) drawings; (7) letters related to biologic deposits; and (8) oaths or declarations.

DRAFT

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,563,908 B2

DATED : July 21, 2009

INVENTOR(S) : Jan Kehler

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 (78) days

Delete the phrase "by 78 days" and insert – by 291 days--

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NOV 15 2010

OFFICE OF PETITIONS

JOHN W. WUSTENBERG
P.O. BOX 1431
DUNCAN OK 73536

In re Application of	:	
John W. BERTHOLD	:	
Application No. 11314,714	:	DECISION ON PETITION
Filed: August 23, 2010	:	
Attorney Docket No. 88850CPK	:	

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

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before September 21, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed June 21, 2010, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on September 22, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,510.00 and publication fee of $300.00; (2) the petition fee of $1,620.00; and (3) a proper statement of unintentional delay. Accordingly, the issue and publication fee payments are accepted as being unintentionally delayed.

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

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at (571) 272-4231.

This application is being referred to Office of Data Management.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **PETER V. SCHROEDER**
BOOTH ALBANESI SCHROEDER LLC
1601 ELM ST, SUITE 1950
DALLAS, TX 75201

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MARGARET ANDERSON
106 E. 6TH STREET, SUITE 900
AUSTIN TX 78701

MAILED
MAR 14 2011
OFFICE OF PETITIONS

In re Application of	:	
Jung et al.	:	DECISION ON PETITION
Application No. 11/314,764	:	TO WITHDRAW
Filed: December 21, 2005	:	FROM RECORD
Attorney Docket No. QQ1-0067US	:	

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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OFFICE OF PETITIONS

Louis J. Wille
Bristol-Myers Squibb Company
Patent Department
PO Box 4000
Princeton, NJ 08543-4000

In re Patent No. 7,589,088	:
Meng et al.	: DECISION UPON REMAND AND
Issue Date: September 15, 2009	: RECONSIDERATION OF
Application No. 11/314,795	: PATENT TERM ADJUSTMENT
Filed: Dec. 21, 2005	: AND NOTICE OF INTENT
Attorney Docket No. 10324 NP	: TO ISSUE CERTIFICATE OF
Title: Pyrimidine Based	: CORRECTION
Inhibitors of Dipeptidyl	:
Peptidase IV and Methods	

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

The patent term adjustment indicated on the above-identified patent has been recalculated as directed by the Court. The term of the above-identified patent is extended or adjusted by eight hundred and fifty-seven (857) days.

The application is being forwarded to the Certificates Branch for issuance of a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by eight hundred and fifty-seven (857) 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 : 7,589,088

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

INVENTOR(S) : Meng 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 589 days

Delete the phrase "by 589 days" and insert – by 857 days--

Day : Tuesday
Date: 11/30/2010

PALM INTRANET

Time: 11:00:49

PTA Calculations for Application: 11/314795			
Application Filing Date:	12/21/2005	PTO Delay (PTO):	589
Issue Date of Patent:	09/15/2009	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	0
Post-Issue Petitions:	0	Total PTA (days):	857
PTO Delay Adjustment:	268		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
60	11/30/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	268		
51.5	08/26/2009	PTA 36 MONTHS			
51	09/15/2009	PATENT ISSUE DATE USED IN PTA CALCULATION			
49	08/13/2009	EXPORT TO FINAL DATA CAPTURE			
48	08/12/2009	DISPATCH TO FDC			
47	08/12/2009	APPLICATION IS CONSIDERED READY FOR ISSUE			
46	08/11/2009	ISSUE FEE PAYMENT VERIFIED			
45	08/11/2009	ISSUE FEE PAYMENT RECEIVED			
44	07/16/2009	FINISHED INITIAL DATA CAPTURE			
43	06/01/2009	SEQUENCE FORWARDED TO PUBS ON TAPE			
42	05/22/2009	EXPORT TO INITIAL DATA CAPTURE			
39	05/21/2009	MAIL NOTICE OF ALLOWANCE			
38	05/19/2009	ISSUE REVISION COMPLETED			
37	05/19/2009	DOCUMENT VERIFICATION			
36	05/19/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
35	05/19/2009	CASE DOCKETED TO EXAMINER IN GAU			
34	05/19/2009	NOTICE OF ALLOWABILITY			
33	05/14/2009	DATE FORWARDED TO EXAMINER			
32	05/12/2009	AMENDMENT AFTER FINAL REJECTION			
31	03/19/2009	ELECTRONIC REVIEW			
30	03/19/2009	EMAIL NOTIFICATION			
29	03/19/2009	MAIL FINAL REJECTION (PTOL - 326)			
28	03/16/2009	FINAL REJECTION			
27	01/16/2009	CRF IS GOOD TECHNICALLY / ENTERED INTO			

		DATABASE			
26	01/13/2009	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
25	01/12/2009	DATE FORWARDED TO EXAMINER			
24	12/11/2008	RESPONSE AFTER NON-FINAL ACTION			
23	10/02/2008	ELECTRONIC REVIEW			
22	10/02/2008	EMAIL NOTIFICATION			
21	10/02/2008	MAIL NON-FINAL REJECTION	589		-1
20	09/29/2008	NON-FINAL REJECTION			
17	10/02/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
16	03/03/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
15.7	10/02/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
15	10/02/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
14	07/10/2006	CASE DOCKETED TO EXAMINER IN GAU			
13	03/22/2006	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
12	03/03/2006	REFERENCE CAPTURE ON IDS			
11.7	03/03/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
11	03/03/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
10	03/21/2006	CASE DOCKETED TO EXAMINER IN GAU			
9	03/17/2006	APPLICATION DISPATCHED FROM OIPE			
8	03/17/2006	APPLICATION IS NOW COMPLETE			
7	03/07/2006	ADDITIONAL APPLICATION FILING FEES			
6	03/07/2006	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
5	02/03/2006	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
4	01/19/2006	CLEARED BY OIPE CSR			
3	01/19/2006	CASE CLASSIFIED BY OIPE			
2	01/13/2006	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	12/21/2005	INITIAL EXAM TEAM NN			

Search Another: Application# Search

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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. 11/314,940
Filed: December 21, 2005
Attorney Docket No.: QQ1-0166US

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

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

The request is **NOT APPROVED**.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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Margaret Anderson
106 E. 6th Street, Suite 900
Austin TX 78701

MAILED

MAR 14 2011

OFFICE OF PETITIONS

In re Application of	:	
EDWARD K.Y. JUNG, ET AL.	:	
Application No. 11/314,949	:	DECISION ON PETITION
Filed: December 21, 2005	:	TO WITHDRAW
Attorney Docket No. **QQ1-0150US**	:	FROM RECORD
	:	

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

The request is **NOT APPROVED**.

The request cannot be approved because the Office no longer accept address changes to a new practitioner/customer number or law firm filed with a request, absent the filing of a power of attorney to the new representative.

The Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest *who properly became of record under 37 CFR 3.71* or, the most current address information provided for the first named inventor. 37 CFR 3.71(c) states:

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

The assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, the statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

A courtesy copy of this decision is being mailed to the address on the request. However, all future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

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

JoAnne Burke
Petitions Examiner
Office of Petitions

cc: LEE & HAYE, PLLC
601 W RIVERSIDE
SUITE 1400
SPOKANE, WA 99201

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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MCNAIR LAW FIRM, P.A.
P.O. BOX 447
GREENVILLE, SC 29602-0447

Mail Date: 08/04/2010

Applicant	: Christine B. Sweetser	: DECISION ON REQUEST FOR
Patent Number	: 7653557	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/315,054	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/22/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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February 24, 2011

Paul M. Booth
Perkins Coie LLP
700 Thirteenth Street NW
Suite 600
Washington DC 20005-3960

Patent No.	: 7,795,275 B2
Ser. No.	: 11/315,354
Inventor(s)	: Maree Therese Smith, et al.
Issued	: September 14, 2010
Docket No.	: 00704.0014.US00
Title	: **METHOD OF TREATMENT OR PROPHYLAXIS**

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: ——

DATE : 3/22/2011

TO SPE OF : ART UNIT 1628

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/315354 Patent No.: 7795275 B2

CofC mailroom date: 3/15/2011

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Virginia Tolbert
Certificates of Correction Branch
571-272-0460

Thank You For Your Assistance

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

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

Comments: _____

/Brandon J. Fetterolf/ — **SPE**

1628 — **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

U.S. ARMY SOLDIER SYSTEMS CENTER
LEGAL OFFICE, A306
15 KANSAS STREET
NATICK MA 01760-5035

MAILED

JAN 03 2011

OFFICE OF PETITIONS

In re Application of	:	
Carole A. Winterhalter	:	
Application No. 11/315,384	:	DECISION ON PETITION
Filed: December 23, 2005	:	
Attorney Docket No. NA-1257	:	

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**.

The application became abandoned for failure to reply in a timely manner to the Requirement for Information (Rule 1.105) mailed February 3, 2010, which set a shortened statutory period for reply of (2) two months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on April 4, 2010. A Notice of Abandonment was mailed on September 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 an election and amendment, (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay. Accordingly the election and 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.

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 $1,730 extension of time fee submitted with the petition on November 9, 2010 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 Kimberly Inabinet at (571) 272 -4618.

This application is being referred to Technology Center AU 1786 for appropriate action by the Examiner in the normal course of business on the reply received November 8, 2010.

/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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THE PROCTER & GAMBLE COMPANY
Global Legal Department - IP
Sycamore Building - 4th Floor
299 East Sixth Street
CINCINNATI OH 45202

MAILED
JAN 24 2011
OFFICE OF PETITIONS

In re Application of	:	
Parminder Singh et al.	:	
Application No. 11/315,423	:	DECISION ON PETITION
Filed: December 21, 2005	:	
Attorney Docket No. 2335-0016	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 3, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed December 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 March 9, 2010. A Notice of Abandonment was mailed July 28, 2010.

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

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

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

This application is being referred to Technology Center AU 1612 for appropriate action by the Examiner in the normal course of business on the reply received December 3, 2010.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

RG and Associates
1103 Twin Creeks
Allen TX 75013

MAILED
DEC 06 2011
OFFICE OF PETITIONS

In re Application of	:	
Robert S. Gammenthaler, Jr.	:	
Application No. 11/315,512	:	DECISION ON PETITION
Filed: December 22, 2005	:	
Attorney Docket No. 139402	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 18, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed April 29, 2011, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on July 30, 2011. A Notice of Abandonment was mailed on November 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 an amendment, (2) the petition fee of $1,860, (3) a proper statement of unintentional delay. Accordingly, the amendment is accepted as being unintentionally delayed.

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

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 November 18, 2011.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

HOGAN LOVELLS US LLP
ONE TABOR CENTER, SUITE 1500
1200 SEVENTEENTH ST
DENVER CO 80202

MAILED

OCT 07 2010

OFFICE OF PETITIONS

In re Application of	:	
Chen et al.	:	
Application No. 11/315,633	:	DECISION ON PETITION
Filed: December 22, 2005	:	
Attorney Docket No. 04-AG-426/SM	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 3, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the final Office action mailed, November 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 on March 3, 2010. A Notice of Abandonment was mailed June 24, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810.00 and the submission required by 37 CFR 1.114; (2) the petition fee of $1,620.00; and (3) a proper statement of unintentional delay.

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 matter is being referred to Technology Center AU 2437 for processing of the Request for Continued Examination under 37 CFR 1.114 and the Amendment filed with the instant petition.

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

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

Date: April 5, 2011

Patent No. : 7,811,333 B2
Application No.: 11/315,648
Issued : October 12, 2010
Inventor : Jonsson, et al.
Title : **SYSTEMS AND METHODS FOR PROCESSING LIMB MOTION**

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 provision of Rule 1.322 and R1.323.

Respecting the alleged error, the word "Rehabilation" purported to be in column 2, line 32, cannot be found in the printed patent. Therefore, no correction(s) is in order here under United States Codes (U.S.C.) 254 and 255 the Code of Federal Regulation (C.F.R.) R1.322 and R1.323.

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

A certificate of correction will be issued to correct the remaining errors noted in your request.

Further correspondence concerning this matter should be filed and directed to Decisions and Certificates of Correction Branch. Any response must be filed within a four week period.

Valerie Jackson
Mary F. Diggs
Decisions & Certificates
of Correction Branch
(571) 272-3423

Lincoln S. Essig
Knobbe, Martens, Olson & Bear, LLP
2040 Main Street, 14th Floor
Irvine, California 92614

vj/MFD

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ICON HEALTH & FITNESS, INC.
1500 SOUTH 1000 WEST
LOGAN, UT 84321

MAILED

FEB 28 2011

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Darren C. Ashby :
Application No. 11/315,682 :
Filed: December 21, 2005 :
Attorney Docket No. METHODS AND SYSTEMS FOR CONTROLLING AN EXERCISE APPARATUS USING A PORTABLE DATA STORAGE DEVICE

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

The petition is **GRANTED**.

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

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

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

This matter is being referred to Technology Center AU 3764 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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ICON HEALTH & FITNESS, INC.
1500 SOUTH 1000 WEST
LOGAN, UT 84321

MAILED
JUN 24 2011
OFFICE OF PETITIONS

In re Application of	:	
Darren C. Ashby	:	
Application No. 11/315,682	:	ON PETITION
Filing: December 21, 2005	:	
Attorney Docket No. 13914.579.4.3	:	

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

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue fee on or before June 2, 2011, as required by the Notice of Allowance and Fee(s) Due mailed March 2, 2011. Accordingly, the application became abandoned on June 3, 2011.

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

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

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

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

Alicia Kelley-Collier
Petitions Examiner
Office of Petitions

cc: J. DUSTIN HOWELL
60 E. SOUTH TEMPLE, SUITE 1000
SALT LAKE CITY, UT 84111

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MOTOROLA MOBILITY, INC
600 NORTH US HIGHWAY 45
W2-55BB
LIBERTYVILLE IL 60048-5343

MAILED

MAR 29 2011

OFFICE OF PETITIONS

In re Application of	:	
Jean KHAWAND et al.	:	
Application No. 11/315,768	:	DECISION ON PETITION
Filed: December 22, 2005	:	
Attorney Docket No. CE14298JSW	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 04, 2011, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before December 07, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed September 07, 2010. Accordingly, the date of abandonment of this application is December 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 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 the Office of Data Management.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

WONG, CABELLO, LUTSCH, RUTHERFORD & BRUCCULERI, L.L.P.
20333 SH 249 6th Floor
HOUSTON TX 77070

MAILED

JUN 06 2011

OFFICE OF PETITIONS

In re Application of	:	
Jean-Marc Trinon	:	
Application No. 11/315,857	:	DECISION ON PETITION
Filed: December 21, 2005	:	TO WITHDRAW
Attorney Docket No. 149-0140US	:	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 **NOT APPROVED.**

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

Accordingly, the request to withdraw from record cannot be approved because a proper forwarding address was not provided. The request to change the correspondence address should be that of the: (1) the first named inventor; or (2) an assignee of the entire interest under 37 C.F.R 3.71. If an assignee has intervened in this application then a Statement under 37 CFR 3.73(b), or a copy of the actual assignment must be submitted with a renewed request.

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

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

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

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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GUERIN & RODRIGUEZ, LLP
5 MOUNT ROYAL AVENUE
MOUNT ROYAL OFFICE PARK
MARLBOROUGH, MA 01752

MAILED
NOV 29 2010
OFFICE OF PETITIONS

In re Application of	:	
Bakul Khanna, et. al.	:	
Application No. 11/315,893	:	DECISION ON PETITION
Filed: December 22, 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 June 22, 2010.

The request is **NOT APPROVED**.

A review of the file record indicates that any previous power of attorney was revoked by the assignee of the above application on June 15, 2010. Accordingly, the request to withdraw under 37 CFR §§ 1.36(b) or 10.40 is moot.

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

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

Andrea Smith
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20100913

DATE : September 13, 2010

TO SPE OF : ART UNIT 2826

SUBJECT : Request for Certificate of Correction on Patent No.: 7626247

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:

/SUE PURVIS/
Supervisory Patent Examiner.Art Unit 2826

UNITED STATES 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 13, 2012

In re Application of :

Laura Brown

Application No : 11315969

Filed : 22-Dec-2005

Attorney Docket No : 026038.0207C1US

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 13, 2012

The request is **APPROVED**

The request was signed by Scott A. Chambers (registration no. 37573) on behalf of all attorneys/agents associated with Customer Number 32042 . All attorneys/agents associated with Customer Number 32042 have been withdrawn.

Since there are no remaining attorneys of record, all future communications from the Office will be directed to the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71, with Customer number 27777 .

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	11315969
Filing Date	22-Dec-2005
First Named Inventor	Laura Brown
Art Unit	1632
Examiner Name	JOANNE HAMA
Attorney Docket Number	026038.0207C1US
Title	Treatment of osteochondral diseases using postpartum-derived cells and products thereof

◉ Please withdraw me as attorney or agent for the above identified patent application and the practitioners of record associated with Customer Number: 32042

The reason(s) for this request are those described in 37 CFR:

10.40(b)(4)

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 address of the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71, associated with Customer Number: 27777

I am authorized to sign on behalf of myself and all withdrawing practitioners.

Signature	/Scott A. Chambers/
Name	Scott A. Chambers
Registration Number	37573

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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WONG, CABELLO, LUTSCH, RUTHERFORD & BRUCCULERI, L.L.P.
20333 SH 249 6th Floor
HOUSTON TX 77070

MAILED
MAY 24 2011
OFFICE OF PETITIONS

In re Application of :
Jean-Marc Trinon et al. :
Application No. 11/316,025 :
Filed: December 21, 2005 :
Attorney Docket No. **149-0140US.1** :

DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney of record under 37 CFR § 1.36(b), filed May 16, 2011.

The request is **NOT APPROVED**.

The request cannot be approved because it lacks the name of the first inventor or the assignee of record that is associated with the address listed in the request. Therefore, the change of correspondence address is considered improper.

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

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

The assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, the statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

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

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

JoAnne Burke
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SEAGER, TUFTE & WICKHEM, LLC
1221 Nicollet Avenue
Suite 800
Minneapolis MN 55403

MAILED
JAN 24 2011
OFFICE OF PETITIONS

In re Application of	:	
Willis	:	
Application No. 11/316,059	:	DECISION ON PETITION
Filed: December 22, 2005	:	
Attorney Docket No. 1001.2225101	:	

This is a decision on the petition, filed November 1, 2010, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the final Office action mailed April 12, 2010, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on October 25, 2010.

Petitioner asserts that the Office action dated April 12, 2010 was not received.

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

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

(1) a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.

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

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

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 may be directed to the undersigned at (571) 272-3230.

This application is being referred to the Technology Center technical support staff of Art Unit 3777 for re-mailing the final Office action of April 12, 2010. The period for reply will run from the mailing date of the Office action.

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

Decision Date : February 14, 2012

In re Application of :

Laura Brown

Application No : 11316104

Filed : 22-Dec-2005

Attorney Docket No : 026038.0206C1US

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 14, 2012

The request is **APPROVED**

The request was signed by Scott A. Chambers (registration no. 37573) on behalf of all attorneys/agents associated with Customer Number 32042 . All attorneys/agents associated with Customer Number 32042 have been withdrawn.

Since there are no remaining attorneys of record, all future communications from the Office will be directed to the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71, with Customer number 27777 .

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	11316104
Filing Date	22-Dec-2005
First Named Inventor	Laura Brown
Art Unit	1653
Examiner Name	LORA DRISCOLL
Attorney Docket Number	026038.0206C1US
Title	Soft tissue repair and regeneration using postpartum-derived cells and cell products

◉ Please withdraw me as attorney or agent for the above identified patent application and the practitioners of record associated with Customer Number: 32042

The reason(s) for this request are those described in 37 CFR:

10.40(b)(4)

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 address of the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71, associated with Customer Number: 27777

I am authorized to sign on behalf of myself and all withdrawing practitioners.

Signature	/Scott A. Chambers/
Name	Scott A. Chambers
Registration Number	37573

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 1/4/2012

TO SPE OF : ART UNIT 3762

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/316120 Patent No.: 8050774 B2

CofC mailroom date: 12/15/11

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

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: _____

_____

_____

_____

_____

SPE

3762
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED
AUG 09 2011
OFFICE OF PETITIONS

CANTOR COLBURN LLP – SABIC (CPP)
20 CHURCH STREET
22ND FLOOR
HARTFORD CT 06103

In re Application of	:	
ELLINGTON, et al	:	
Application No. 11/316,227	:	ON PETITION
Filed: December 22, 2005	:	
Attorney Docket No. 182132-2 (P29-0132)	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 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 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)(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 27, 2011. A Notice of Abandonment was mailed June 23, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment that *prima facie* places the application in condition for allowance; (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 1767 for processing by the Examiner in the normal course of business.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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
MAR 15 2011
OFFICE OF PETITIONS

In re Application of :
Yan, et al. :
Application No. 11/316,267 : DECISION ON PETITION
Filed: December 22, 2005 :
Attorney Docket No. 185358-1 :

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

The petition is GRANTED.

This application became abandoned August 18, 2009 for failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). Notice of Abandonment was mailed February 18, 2010.

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

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

This application is being referred to Technology Center AU 2879 for further processing.

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : **3-22-11**

TO SPE OF : ART UNIT **2193**

SUBJECT : Request for Certificate of Correction for Appl. No.: **11316291** Patent No.: **7814474**

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: _____

LEWIS A. BULLOCK, JR.
SUPERVISORY PATENT EXAMINER

SPE

2193
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

Date : 2/5/11
Patent No. : 7,847,114 B2
Serial No. : 11/316,358
Inventor(s) : Takacs
Issued : December 7, 2010
Title : **SELF-ASSEMBLED HETEROLEPTIC CHIRAL LIGANDS, ASYMMETRIC CATALYST SYSTEMS AND METHODS**
Docket No. : **T3932-10541US01**

Re: Request for Reconsideration

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of 37 CFR 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Fee(s) Transmittal Form PTOL-85B. After payment of the issue fee, correction of assignment data submitted on the PTOL-85B can only be done by Certificate of Correction under 37 CFR 1.323, with a request under 37 CFR 3.81(b).

A petition is required to correct the Assignee, under 37 CFR 1.183, and should include: (1) the petition fee set forth in 37 CFR 1.117(h) (currently $130); (2) the correct name and address of the assignee; (3) the reel and frame number where the assignment is recorded or proof of the date the assignment was submitted for recordation.

A request for a patent to be corrected to state the name of the assignee must:

A. state that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent;
B. include a request for a certificate of correction under 37 CFR 1.323 along with the fee set forth in 37 CFR 1.20(a); and
C. include the processing fee set forth in 37 CFR 1.17(i).

If the request is granted, Certificates of Correction Branch will be notified that a Certificate of Correction may be issued.

See Manual of Patent Examining Procedure, Section 1481.01 (Rev. 3) (Oct. 2005).

Applicant has not included items A and or C above, accordingly, the request for Certificate of Correction to add or change the assignee data is dismissed.
Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

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

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

Ernest C. White, *LIE*
ernest.white@uspto.gov
(571) 272-3385
For Mary F. Diggs (703) 756-1580
Decisions & Certificates
of Correction Branch

MILES & STOCKBRIDGE PC
1751 PINNACLE DRIVE
SUITE 500
MCLEAN VA 22102-3833

ecw

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 02/14/12

TO SPE OF : ART UNIT 2196

SUBJECT : Request for Certificate of Correction for Appl. No.: 11316367 Patent No.: 8001527

CofC mailroom date: 01/20/12

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 Directors/SPE response to 571-273-3421

Note: **Should the changes be made?**

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

X **Approved** — **All** changes apply.

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

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

Comments:

At Coln 61, lines 61-62, it should be: replace "processid=123" with --process_id=123.--

Emerson Puente

Emerson Puente — **2196**

SPE — **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 02/14/12

TO SPE OF : ART UNIT 2196

SUBJECT : Request for Certificate of Correction for Appl. No.: 11316367 Patent No.: 8001527

CofC mailroom date: 01/20/12

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Note: **Should the changes be made?**

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

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

Note your decision on the appropriate box.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

X **Approved** — **All** changes apply.

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

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

Comments:

At Coln 61, lines 61-62, it should be: replace "processid=123" with --process_id=123.--

Emerson Puente — **SPE**

2196 — **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

AUG 30 2010

OFFICE OF PETITIONS

MORRISON & FOERSTER LLP
755 PAGE MILL RD
PALO ALTO CA 94304-1018

In re Patent No. 7,691,989
Issued: April 6, 2010
Application No. 11/316,370
Filed: December 22, 2005
Dkt. No.: 146392001200/P2194R1-US

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

This is a decision on the petition filed on June 4, 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 773 days instead of 659 days. Patentees contest the 120 day reduction in connection with drawings filed July 17, 2009. Patentees further advise that the adjustment is subject to an additional reduction of six days in connection with the supplemental reply filed January 27, 2009.

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 773 days is **GRANTED**.

A review of the record reveals that the examiner acknowledged that the drawings submitted July 17, 2009 were previously submitted prior to allowance on July 21, 2008. Accordingly, in this instance, the submission of the drawings after allowance is not deemed a failure to engage in reasonable efforts to conclude prosecution or processing within the meaning of 37 CFR 1.704(c)(10).

A review of the record reveals that, as asserted, the Office neglected to assert a six day reduction of patent term in connection with the supplemental reply filed January 27, 2009. In accordance with 37 CFR 1.704(c)(8), the reduction commenced January 22, 2009 and ended January 27, 2009.

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

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

The application is being forwarded to the Certificates of Corrections Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by 773 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 : 7,691,989

DATED : **April 6, 2010** **DRAFT**

INVENTOR(S) : Ernst, 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 659 days

Delete the phrase "by 659 days" and insert – by 773 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/316,381	12/22/2005	Dean W. Hahn-Carlson	USBA.133PA	8830

40581 7590 05/18/2011
CRAWFORD MAUNU PLLC
1150 NORTHLAND DRIVE, SUITE 100
ST. PAUL, MN 55120

EXAMINER
BORLINGHAUS, JASON M

ART UNIT	PAPER NUMBER
3693	

MAIL DATE	DELIVERY MODE
05/18/2011	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAY 18 2011

Crawford Maunu PLLC
1150 Northland Drive, Suite 100
St. Paul, MN 55120

May 10, 2011

In re Application of
Dean W. HAHN-CARLSON
Appl. No. 11/316,381
Filed: April 18, 2011
For: Multi-Party Transaction Processing System and Approach

ON PETITION TO REGARDING REQUEST TO WITHDRAW UNDER 37 CFR 1.181

This is a decision on Petition filed April 18, 2001 under 37 CFR 1.181 requesting the withdrawal of the finality of the Office Action mailed on February 16, 2011.

The Petition is **DENIED.**

BACKGROUND

Petitioners request that the finality of the final Office action mailed February 16, 2011 (hereafter "the final Office action") be withdrawn. Petitioner alleges the final Office action is improper for three reasons

1. The Examiner has relied upon newly-cited portions of the '378 reference in rejecting the claims, which have materially altered the substance of the rejection;
2. The Examiner has not addressed each of Applicant's traversals; and
3. The Examiner has failed to provide any explanation as to how the cited 'conventional' practices would be combined with the '378 references in context of the claimed invention.

A review of the record shows that the Examiner filed a Non-Final Office action on August 26, 2010 hereafter (the non-final Office action). This action acknowledged Petitioner's election of Group I (Claims 1-19, 41 and 42) without traverse. The action further included the following rejections, 1) all claims under 35 U.S.C. 112 2nd and 2) Claims 1-10, 12-19 and 41-42 under 35 USC 103(a) over Webber (hereafter '378) in

view of Lidow (hereafter '435) and 3) claim 11 under 35 USC 103(a) over '378 and '435 in further view of Official Notice.

On November 24, 2010 Petitioner responded with eight pages of arguments. On February 16, 2011 the Examiner mailed the final Office action withdrawing the rejection under 35 USC 112 2nd but maintaining the art rejections. Examiner provided ten pages of responses to Petitioner's arguments.

On April 18, 2011 Petitioner filed the instant petition alleging the final Office action was improper for the previously noted reasons.

DECISION

The Examiner has relied upon newly-cited portions of the '378 reference in rejecting the claims, which have materially altered the substance of the rejection

Petitioner asserts that the final Office action of February 16, 2011 was premature in that the Examiner "relied upon newly cited portions of the '378 reference in rejecting the claims, which have materially altered the substance of the rejection." Petitioner points out that the Examiner "relies upon newly-cited portions of the '378 reference (see page 10) in alleging correspondence to a payment approach involving paying both intermediate and performing sellers (e.g. as in claim 1)."

A review of the record reveals that within '378 reference was cited in the grounds of rejection in the non-final Office action. The same grounds of rejection were maintained in the final Office action. Additionally, within Grounds of Rejection section of each of these Office actions the Examiner cites to the same exact sections of the '378 reference as well as provides the exact same analysis of how the reference is applied.

A further review of the record reveals that Applicant's alleged example of the Examiner relying "upon newly cited portions of the '378 reference in rejecting the claims," refers to the Response to Arguments portion of the final Office Action.

It is deemed that the Examiner has not directly asserted a new grounds of rejection (i.e. applied new prior art) nor "materially altered" the previously cited grounds of rejection as to constitute constructively asserting new grounds of rejection. Rather, the newly cited portions of the '378 reference were introduced by the Examiner in the final Office action to merely clarify the positions taken in the non-final Office action and maintained in the final Office action.

The Examiner has not addressed each of Applicant's traversals

Petitioner alleges that the final Office action was premature in accordance with the guidelines of MPEP § 707.07 (f) in that the Examiner has "not addressed each of the Applicant's traversals (e.g. as related to the rejection of claim 2 and as to the taking of

"Official Notice."). Petitioner argues that the Examiner "failed to address aspects of the Applicant's traversals noting that the '378 reference makes gross payments that are independent from specific contract terms, and rather based simply upon amounts of funds owed to respective parties (see, e.g. column 18 of the '378 reference). "

MPEP § 707.07(f)[1] provides in pertinent part that (with emphasis added):

> Where the applicant traverses any rejection, the examiner should, if he or she repeats the rejection, take note of the applicant's argument and answer the **substance of it.**

A review of the record reveals that the Examiner dedicated 10 pages of the final Office action to address Petitioner arguments. Within these sections the Examiner has properly addressed the substance of the Petitioners arguments. With particular attention to the specific arguments Petitioner raises in the instant Petition, the Examiner addresses the traversal regarding the "gross payments [based upon] contract terms" on pages 13-14 and the traversal of Official Notice on pages 17-18.

While Petitioner may disagree with the position taken by the Examiner, the record indicates the Examiner properly addresses the **substance of** each of the Petitioner's traversals in the final Office action.

The Examiner has failed to provide any explanation as to how the cited 'conventional' practices would be combined with the '378 references in context of the claimed invention.

Applicant alleges that the final Office action was premature in that the Examiner "failed to provide any explanation as to how the cited 'conventional' practices would be combined with the '378 reference in the context of the claimed invention." Applicant points out that the Examiner "fails to explain how the relatively simple allegation that 'assessing a fee' is known, would involve assessing such a fee in the specific context of the claimed invention."

MPEP 2141[2] details the guidelines for determining obviousness under 35 USC 103. Specifically provides in pertinent part

> These guidelines are intended to assist Office personnel to make a proper determination of obviousness under 35 U.S.C. 103, and to provide an appropriate supporting rationale in view of the recent decision by the Supreme Court in *KSR International Co. v. Teleflex Inc. (KSR)*, 550 U.S. ___, 82 USPQ2d 1385 (2007). The guidelines are based on the Office's current understanding of the law, and are believed to be fully consistent with the binding precedent of the Supreme Court.
>
> The Supreme Court in *KSR* reaffirmed the familiar framework for determining obviousness as set forth in *Graham v. John Deere Co.* (383 U.S. 1, 148 USPQ 459 (1966)), but stated that the

[1] See Manual of Patent Examiner Procedure (MPEP) § 707.07(f) (8th ed. 2001)(Rev. 2, May 2004)
[2] See Manual of Patent Examiner Procedure (MPEP) § 2141 (8th ed. 2001)(Rev. 2, May 2004)

Federal Circuit had erred by applying the teaching-suggestion-motivation (TSM) test in an overly rigid and formalistic way.

An invention that would have been obvious to a person of ordinary skill at the time of the invention is not patentable. See 35 U.S.C. 103(a). As reiterated by the Supreme Court in *KSR*, the framework for the objective analysis for determining obviousness under 35 U.S.C. 103 is stated in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966). Obviousness is a question of law based on underlying factual inquiries. The factual inquiries enunciated by the Court are as follows:

(A)Determining the Scope and Content of the Prior Art; and
(B)Ascertaining the differences between the claimed invention and the prior art; and
(C)Resolving the level of ordinary skill in the pertinent art.

A review of the record reveals that the Examiner, on page 9 of the final Office action states, "It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Webber and Lidow by incorporating standard and conventional fee assessment practices, as are old and well known in the art, to comply with standard and conventional practices in the industry." Contrary to Petitioner's allegations these statements by the Examiner are sufficient, as detailed by MPEP 2141 to establish a prime facie case of obviousness as the Examiner has clearly determined the scope and content of the Prior Art, ascertained the difference between the claimed invention and the prior art and resolved the level of ordinary skill in the art.

It is deemed that the Examiner satisfactorily addressed how the cited 'conventional' practices would be combined with the '378 reference in the context of the claimed invention.

SUMMARY: The Petition is **DENIED** for the reasons set forth above.

Any questions regarding this decision should be directed to James Kramer, Supervisory Patent Examiner, at (571) 272-6783.

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

Jak/snm: 5/10/11

SM

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: P22565	Patent Number: 7,664,215
Filing Date (or 371(b) or (f) Date): 12-21-2005	Issue Date: 2-16-2010
First Named Inventor: James E. Jaussi	
Title: SIGNAL ALIGNMENT BASED ON DATA SIGNAL	

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 /Philip A. Pedigo/	Date July 8, 2010
Name (Print/Typed) Philip A. Pedigo	Registration Number 52,107

***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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Caven & Aghevli LLC
c/o CPA Global
P.O. BOX 52050
MINNEAPOLIS, MN 55402

Mail Date: 08/13/2010

Applicant	: James E. Jaussi	: DECISION ON REQUEST FOR
Patent Number	: 7664215	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/316,448	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/21/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1085** 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/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: 67097-461	Patent Number: 7665307
Filing Date (or 371(b) or (f) Date): 12/22/2005	Issue Date: 02/23/2010
First Named Inventor: Steven W. Burd	
Title: DUAL WALL COMBUSTOR LINER	

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 /John M. Siragusa/	Date 8-23-2010
Name (Print/Typed) John M. Siragusa	Registration Number 46174

***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.

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

Mail Date: 09/08/2010

Applicant	: Steven W. Burd	: DECISION ON REQUEST FOR
Patent Number	: 7665307	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/316,657	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/22/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **989** 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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Alexandria, VA 22313-1450
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DILORENZO BIOMEDICAL LLC
PO BOX 300905
HOUSTON TX 77230

MAILED
OCT 11 2011
OFFICE OF PETITIONS

In re Application of :
Daniel John DiLorenzo :
Application No. 11/317,099 : ON PETITION
Filed: December 22, 2005 :
Attorney Docket No. GISTIM 02.02 :

This is in response to petition to revive under 37 CFR 1.137(b), filed September 25, 2011.

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

The above-identified application became abandoned for failure to file a proper response to the final Office action, mailed August 26, 2010, which set a shortened statutory period for reply of three months. No reply having been received, the application became abandoned on November 27, 2010. The Office mailed a Notice of Abandonment on March 10, 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 (previously submitted together with the required submission on September 24, 2011).

The application is being forwarded to Group Art Unit 3766 for consideration of the RCE, filed September 24, 2011.

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

Cliff Congo
Petitions Attorney
Office of Petitions

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John H. Lynn
Suite C 103
2915 Redhill Ave.
Costa Mesa CA 92626

MAILED
JUN 15 2011
OFFICE OF PETITIONS

In re Patent No. 7,188,521	:	
Issue Date: March 13, 2007	:	
Application No. 11/317,159	:	ON PETITION
Filed: December 22, 2005	:	
Attorney Docket No. FLING.04 A	:	

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

The petition is **GRANTED**.

This patent expired on March 14, 2011 for failure to pay the three and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

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

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

The patent file is being forwarded to Files Repository.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

OPAP IAP5
AUG 3 0 2010
PATENT & TRADEMARK OFFICE

COFC

DOCKET NO.: 4928

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN THE MATTER OF THE PATENT

OF: Kenjiro KITA et al.

PATENT NO.: 7,484,317

ISSUE DATE: February 3, 2009

FOR: Sole Structure For a Shoe

Certificate
SEP 0 2 2010
of Correction

COMMISSIONER FOR PATENTS
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450

August 27, 2010

REQUEST FOR THE ISSUANCE OF A CERTIFICATE OF CORRECTION UNDER 35 USC 254 AND CERTIFICATE OF MAILING

Honorable Commissioner:

1) The above identified Patent contains printing errors by the USPTO. Please correct the errors as shown on the enclosed Form PTO-1050. For an explanation of the requested changes, please see the originally filed **specification** at page 21 line 8 and page 25 line 5; and our **Response** dated October 21, 2008 at page 4 lines 4 and 22, page 5 lines 13, 20, 21, 23, 24, 25, 26, 27 and page 6 lines 1, 2, 3 and 4.

2) Issuance of a Certificate of Correction as soon as possible will be much appreciated.

Respectfully submitted,

By Walter F. Fasse

Walter F. Fasse
Patent Attorney
Reg. No.: 36132
Tel. No.: 207-862-4671
Fax. No.: 207-862-4681
P.O. Box 726
Hampden, Maine 04444-0726

WFF:he/4928
Enclosures:
postcard,
Form PTO-1050 (2x)

CERTIFICATE OF MAILING:
I hereby certify that this correspondence with all indicated enclosures is being deposited with the U. S. Postal Service with sufficient postage as first-class mail, in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date indicated below.

M. Hellwig-Hill 8/27/10

Name: M. Hellwig-Hill - Date: August 27, 2010

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,484,317

APPLICATION NO.: 11/317,322

ISSUE DATE : February 3, 2009

INVENTOR(S) : Kenjiro KITA et al.

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

Column 7,
Line 4, replace "IB." by --IB,--;
Line 19, after "convex", delete --portions--;
Line 33, following "example." there should be no paragraph break;
Line 39, replace "201. 211" by --20_1, 21_1--;
Line 40, replace "212" and "311" by --21_2-- and --31_1--;
Line 41, replace "312" by --31_2--;
Line 43, replace "61" and "62" by --6_1-- and --6_2--;
Line 44, replace "251" and "252" and "351" by --25_1-- and --25_2-- and --35_1--;
Line 45, replace "352" and "3." by --35_2-- and --3,--;
Line 46, replace "elates" by --plates-- and "541" by --54_1--;
Line 47, replace "542" by --54_2--;
Line 48, replace "311" and "312" and "L1" by --31_1-- and --31_2-- and --L_1--;
Line 49, replace "L2" by --L_2--;
Line 50, replace "311" and "312" by --31_1-- and --31_2--;

Column 8,
Line 61, after "ground", delete --,--;

Column 10,
Line 19, after "ribs", replace "maybe" by --may be--.

ADDRESS OF SENDER: FASSE PATENT ATTORNEYS, P.A.
P. O. BOX 726
Hampden, Maine 04444-0726 U.S.A.

Form PTO 1050 (REV.3-82)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,484,317

APPLICATION NO.: 11/317,322

ISSUE DATE : February 3, 2009

INVENTOR(S) : Kenjiro KITA et al.

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

Column 7,
Line 4, replace "IB." by --IB,--;
Line 19, after "convex", delete --portions--;
Line 33, following "example." there should be no paragraph break;
Line 39, replace "201. 211" by --20_1, 21_1--;
Line 40, replace "212" and "311" by --21_2-- and --31_1--;
Line 41, replace "312" by --31_2--;
Line 43, replace "61" and "62" by --6_1-- and --6_2--;
Line 44, replace "251" and "252" and "351" by --25_1-- and --25_2-- and --35_1--;
Line 45, replace "352" and "3." by --35_2-- and --3,--;
Line 46, replace "elates" by --plates-- and "541" by --54_1--;
Line 47, replace "542" by --54_2--;
Line 48, replace "311" and "312" and "L1" by --31_1-- and --31_2-- and --L_1--;
Line 49, replace "L2" by --L_2--;
Line 50, replace "311" and "312" by --31_1-- and --31_2--;

Column 8,
Line 61, after "ground", delete --,--;

Column 10,
Line 19, after "ribs", replace "maybe" by --may be--.

ADDRESS OF SENDER: FASSE PATENT ATTORNEYS, P.A.
P. O. BOX 726
Hampden, Maine 04444-0726 U.S.A.

Form PTO 1050 (REV.3-82)

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

MAILED
NOV 04 2010
OFFICE OF PETITIONS

In re Application of	:	
Micky HOLTZMAN, et *al.*	:	
Application No. 11/317,341	:	DECISION GRANTING PETITION
Filed: December 22, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **10519-681**	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed November 4, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

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

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

This application is being referred to Technology Center AU 2186 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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BRINKS HOFER GILSON & LIONE/SANDISK
P.O. BOX 10395
CHICAGO IL 60610

MAILED
JUL 07 2011
OFFICE OF PETITIONS

In re Patent No. 7,934,049
Issued: April 26, 2011
Application No. 11/317,341
Filed: December 22, 2005
Attorney Docket No. 10519/681

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

This letter is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT PURSUANT TO 37 CFR § 1.705(d)", filed June 24, 2010, requesting that the patent term adjustment indicated on the above-identified patent be corrected from 80 days to 88 days.

The request for correction of the initial determination of patent term adjustment (PTA) is **GRANTED.** The PTA at the time of the mailing of the notice of allowance is 88 days.

On December 17, 2010, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 0 days. Additionally, on April 26, 2011, the above-identified application matured into U.S. Patent No. 7,934,049 with a revised patent term adjustment of 80 days. Applicants submit that the U.S. Patent and Trademark Office made an error in charging 15 days delay for the Information Disclosure Statement filed on February 9, 2011, after allowance, that a proper certification under 1.704(d) accompanied that paper and thus no delay should have been assessed. Applicants further submit that the U.S. Patent and Trademark Office missed 7 days of Applicant delay associated with the Amendment under 37 C.F.R. § 1.312 filed June 21, 2010 (pursuant to 1.704(10)). Accordingly, Applicants submit that an additional 8 days of patent term adjustment (15-7) is owed to the Applicants.

Specifically, 37 CFR 1.704(c) provides, in pertinent part, that:

> Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in

the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:

(10) Submission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the lesser of

(i) The number of days, if any, beginning on the date the amendment under § 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or such other paper; or

(ii) Four months; ...

> With respect to the grounds for adjustment set forth in §§ 1.702(a) through (e), and in particular the ground of adjustment set forth in § 1.702(b), an applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of three months that are taken to reply to any notice or action by the Office making any rejection, objection, argument, or other request, measuring such three-month period from the date the notice or action was mailed or given to the applicant, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date that is three months after the date of mailing or transmission of the Office communication notifying the applicant of the rejection, objection, argument, or other request and ending on the date the reply was filed. The period, or shortened statutory period, for reply that is set in the Office action or notice has no effect on the three-month period set forth in this paragraph.

A review of the application history reveals that applicants are correct. The record supports a conclusion that an Information Disclosure Statement (IDS) was filed February 9, 2011 with a 37 § CFR 1.704(d) certification, and that an amendment under 37 C.F.R. 1.312 was filed June 21, 2010, both after the mailing of the Notice of Allowance on December 17, 2010.

Given the filing of the Information Disclosure Statement (IDS) on February 9, 2011, after the mailing of the Notice of Allowance on although with a proper 37 § CFR 1.704(d) certification, the reduction in the amount of 15 for applicant delay is being removed. Given the filing of the amendment under 37 CFR § 1.312 on June 21, 2010,

after the mailing of the Notice of Allowance, a period of reduction, pursuant to 37 CFR § 1.704(c)(10), in the amount of 7 days should have been entered. As such, the patent term adjustment is 88 days.

Petitioner's deposit account no. 23-1925 has been charged in the amount of $200 for the petition fee as set forth in 37 CFR 1.18(e). No additional fees are required.

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

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 **eighty-eight (88)** days.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,934,049 B2

DATED : April 26, 2011

INVENTOR(S) : Micky Holtzman

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 (80) days

Delete the phrase "by 80 days" and insert – by 88 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

HUNTON & WILLIAMS LLP
INTELLECTUAL PROPERTY DEPARTMENT
1900 K STREET, N.W.
SUITE 1200
WASHINGTON DC 20006-1109

MAILED
FEB 28 2011
OFFICE OF PETITIONS

In re Patent No. 7,794,716	:	
Issue Date: September 14, 2010	:	
Application No. 11/317,378	:	NOTICE
Filed: December 23, 2005	:	
Attorney Docket No. 68936.000203	:	

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

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

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

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

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

Thurman K. Page
Petitions Examiner
Office of Petitions

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	11317574
Filing Date	23-Dec-2005
First Named Inventor	Sanjay Mistry
Art Unit	1649
Examiner Name	ADITI DUTT
Attorney Docket Number	026038.0205D1US
Title	Repair and regeneration of ocular tissue using postpartum-derived cells

◉ Please withdraw me as attorney or agent for the above identified patent application and the practitioners of record associated with Customer Number: 32042

The reason(s) for this request are those described in 37 CFR:

10.40(b)(4)

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 address of the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71, associated with Customer Number: 27777

I am authorized to sign on behalf of myself and all withdrawing practitioners.

Signature	/Scott A. Chambers/
Name	Scott A. Chambers
Registration Number	37573

UNITED STATES 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 14, 2012

In re Application of :

Sanjay Mistry

Application No : 11317574

Filed : 23-Dec-2005

Attorney Docket No : 026038.0205D1US

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 14, 2012

The request is **APPROVED**

The request was signed by Scott A. Chambers (registration no. 37573) on behalf of all attorneys/agents associated with Customer Number 32042 . All attorneys/agents associated with Customer Number 32042 have been withdrawn.

Since there are no remaining attorneys of record, all future communications from the Office will be directed to the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71, with Customer number 27777 .

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

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

Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Patent No. : 7,884,075 B2
Ser. No. : 11/317,582
Inventor(s) : Scheiflinger et al.
Issued : Feb. 8, 2011
Title : POLYMER-FACTOR V111-VON WILLEBRAND FACTOR-CONJUGATES
Docket No. : R-6203
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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GERBERA/BSTZ
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1279 OAKMEAD PARKWAY
SUNNYVALE CA 94085

MAILED
MAY 31 2011
OFFICE OF PETITIONS

In re Application of :
Paolo Tessariol et al. :
Application No. 11/317,679 : DECISION ON PETITION
Filed: December 22, 2005 :
Attorney Docket No. **8410.P00080** :

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 file a reply within the meaning of 37 CFR 1.113 to the final Office action of August 23, 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 November 24, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of 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 Tredelle Jackson at (571) 272-2783.

This application is being referred to Technology Center AU 2891 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

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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VENABLE LLP
P.O. BOX 34385
WASHINGTON DC 20045-9998

MAILED

SEP 3 0 2010

OFFICE OF PETITIONS

Applicant: Ueki et al.	:	
Application No. 11/317,897	:	Decision on
Filed: December 27, 2005	:	Petition
For: Sustained Release Formulations	:	

This is a decision in response to the petition entitled "Request for Reconsideration of Petition Under 37 CFR 1.181" received on December 7, 2006, for the above identified application, which is being treated as a petition for reconsideration for a redacted publication.

The petition under 37 CFR 1.181 is denied.

Background

On December 27, 2005, the above-identified application was received by the Office.

On March 14, 2006, the Office of Initial Patent Examination (OIPE) mailed a Notice to File Missing Parts of Nonprovisional Application, which stated the filing fee, search fee, examination fee, additional claims fees, additional page fees, the surcharge and the oath or declaration are missing and must be submitted to avoid abandonment of the application.

On April 24, 2006, Applicants submitted a request for redacted publication through the Office's electronic filing system, which did not include a copy of the oath or declaration.

On April 24, 2006, Applicants submitted in paper a request for redacted publication and concurrently submitted a number of documents including a certified copy of the foreign application, a translation of the foreign application, a certification and a marked up copy of the redacted application, which did not include a copy of the oath or declaration.

On July 14, 2006, Applicants responded to the Notice to File Missing Parts and submitted a partially executed declaration along with a petition under 37 CFR 1.47.

On July 25, 2006, Applicants submitted a supplemental response to the Notice to File Missing Parts and submitted another partially executed declaration with the non-signing inventor's signature.

On October 17, 2006, a Pre-Grant Publication Rejection Notice was mailed, which stated the request for redacted publication was rejected because the submission was found to have failed to comply with 37 CFR 1.217(b) since the declaration, which is part of the application, was missing from the request.

On November 2, 2006, Petitioner submitted a petition requesting reconsideration of the request for redacted publication filed on April 24, 2006, stating that the submission of an oath or declaration is not required for a request for redacted publication.

On November 22, 2006 a decision was mailed by the Office concluding that the petition under 37 CFR 1.181 and 37 CFR 1.182 was granted in part and dismissed respectively.

On December 7, 2006, Petitioner submitted a request for reconsideration requesting reconsideration of the petition filed on November 2, 2006 further stating the applicable statutes and rules do not require the submission of an oath or declaration upon submission of a request for redacted publication.

Petitioner asserts that an oath or declaration is not required with a submission of a request for redacted publication pursuant to 35 U.S.C. § 122(b) or 37 CFR 1.217 and that 35 U.S.C. § 111(a)(3) and 37 CFR 1.53(b) govern the application requirements and do not require the submission of an oath or declaration. Petitioner argues that submission of an oath or declaration pursuant to 37 CFR 1.217(b) in compliance with electronic filing system requirements was impossible because the "old" electronic filing system at the time was incapable of allowing Petitioner to perform such function. Petitioner states that the petition decision is contrary to the statements provided therein and to 35 U.S.C. § 111(a)(3). Petitioner asserts that an oath or declaration was filed in the application. Petitioner states that no reason was provided as to why 35 U.S.C. § 111(a)(3) and 37 CFR 1.53(b) do not apply to requests for redacted publication. Petitioner argues that it was improper for the Office to rewrite 35 U.S.C. § 122(b)(2)(B)(v) to require the submission of an oath or declaration. Petitioner further argues that the Office has not provided any reason why an oath or declaration is required when 37 CFR 1.217(c) does not list an oath or declaration as a requirement for filing a request for redacted publication.

Applicable Statutes and Regulation

35 U.S.C. § 111 Application

(a)IN GENERAL.—

(1)WRITTEN APPLICATION.—An application for patent shall be made, or authorized to be made, by the inventor, except as otherwise provided in this title, in writing to the Director.

(2)CONTENTS.—Such application shall include—

(A)a specification as prescribed by section 112 of this title;

(B)a drawing as prescribed by section 113 of this title; and

(C)an oath by the applicant as prescribed by section 115 of this title.

(3)FEE AND OATH.—The application must be accompanied by the fee required by law. The fee and oath may be submitted after the specification and any required drawing are submitted, within such period and under such conditions, including the payment of a surcharge, as may be prescribed by the Director.

(4)FAILURE TO SUBMIT.—Upon failure to submit the fee and oath within such prescribed period, the application shall be regarded as abandoned, unless it is shown to the satisfaction of the Director that the delay in submitting the fee and oath was unavoidable or unintentional. The filing date of an application shall be the date on which the specification and any required drawing are received in the Patent and Trademark Office.

35 U.S.C. § 122(b)(2)(B)(v) Confidential status of applications; publication of patent applications

If an applicant has filed applications in one or more foreign countries, directly or through a multilateral international agreement, and such foreign filed applications corresponding to an application filed in the Patent and Trademark Office or the description of the invention in such foreign filed applications is less extensive than the application or description of the invention in the application filed in the Patent and Trademark Office, the applicant may submit a redacted copy of the application filed in the Patent and Trademark Office eliminating any part or description of the invention in such application that is not also contained in any of the corresponding applications filed in a foreign country. The Director may only publish the redacted copy of the application unless the redacted copy of the application is not received within 16 months after the earliest effective filing date for which a benefit is sought under this title. The provisions of section 154(d) shall not apply to a claim if the description of the invention published in the redacted application filed under this clause with respect to the claim does not enable a person skilled in the art to make and use the subject matter of the claim.

37 CFR § 1.51 General requisites of an application

(a)Applications for patents must be made to the Director of the United States Patent and Trademark Office.

(b)A complete application filed under § 1.53(b) or § 1.53(d) comprises:

(1)A specification as prescribed by 35 U.S.C. 112, including a claim or claims, see §§ 1.71 to 1.77;

(2)An oath or declaration, see §§ 1.63 and 1.68;

(3)Drawings, when necessary, see §§ 1.81 to 1.85; and

(4)The prescribed filing fee, search fee, examination fee, and application size fee, see § 1.16.

37 CFR § 1.217 Publication of a redacted copy of an application

(a)If an applicant has filed applications in one or more foreign countries, directly or through a multilateral international agreement, and such foreign-filed applications or the description of the invention in such foreign-filed applications is less extensive than the application or description of the invention in the application filed in the Office, the applicant may submit a redacted copy of the application filed in the Office for publication, eliminating any part or description of the invention that is not also contained in any of the corresponding applications filed in a foreign country. The Office will publish the application as provided in § 1.215(a) unless the applicant files a redacted copy of the application in compliance with this section within sixteen months after the earliest filing date for which a benefit is sought under title 35, United States Code.

(b)The redacted copy of the application must be submitted in compliance with the Office electronic filing system requirements. The title of the invention in the redacted copy of the application must correspond to the title of the application at the time the redacted copy of the application is submitted to the Office. If the redacted copy of the application does not comply with the Office electronic filing system requirements, the Office will publish the application as provided in § 1.215(a).

(c)The applicant must also concurrently submit in paper (§ 1.52(a)) to be filed in the application:

(1)A certified copy of each foreign-filed application that corresponds to the application for which a redacted copy is submitted;

(2)A translation of each such foreign-filed application that is in a language other than English, and a statement that the translation is accurate;

(3)A marked-up copy of the application showing the redactions in brackets; and

(4)A certification that the redacted copy of the application eliminates only the part or description of the invention that is not contained in any application filed in a foreign country, directly or through a multilateral international agreement, that corresponds to the application filed in the Office.

Analysis

Petitioners' argument that an oath or declaration is not a required element of an application for redacted publication is not persuasive. Pursuant to 35 U.S.C. § 122(b)(2)(B)(v) and 37 CFR 1.217, for an applicant to become eligible for a redacted publication, a copy of the application is required to be submitted within 16 months of the earliest effective filing date for which a benefit is sought. Furthermore, both 35 U.S.C. § 111 and 37 CFR 1.51 also state that the oath or declaration is one of the required parts of the application. Since the statute and the rule both state that an oath or declaration is a required part of the application, Petitioners' argument that the rule on redacted publication does not require an oath or declaration is not persuasive.

35 U.S.C. § 111 and 37 CFR 1.51 specifically define the elements of an application, wherein one of elements is the oath or declaration. The fact that a filing date may be granted to an application without the oath or declaration and that the oath or declaration may be submitted at a later time is inapplicable in the case at issue. The submission of an oath or declaration at a later date as it pertains to 35 U.S.C. § 111, 37 CFR 1.51 and 37 CFR 1.53 is applicable to obtaining a filing

date. However, 35 U.S.C. § 122(b)(2)(B)(v) and 37 CFR 1.217 specifically state that an application must be received within 16 months of the earliest effective filing date for which benefit is sought to be eligible for a redacted publication. The aforementioned statute and rule do not provide for an exception as to when the complete application must be received or the possibility of an extension of time. Therefore, pursuant to the aforementioned statue and rule and the requirements of an application as defined in 35 U.S.C. § 111 and 37 CFR 1.51, the oath or declaration must be submitted with the request for redacted publication within the 16 month time period.

Petitioners' argument that the petition decision mailed on November 22, 2006 is contrary to the statements therein, is not persuasive in view of the aforementioned analysis and further in view of 35 U.S.C. § 111(a)(3)-(4). The statute 35 U.S.C. § 111(a)(3)-(4) expressly provides that an applicant may submit an application without an oath or declaration and still receive a filing date and thereafter submit the oath or declaration within a particular time period with a fee. As stated in the petition decision, this provision to allow a later filing of the oath or declaration does not eliminate the requirement that a patent application must include an oath or declaration. Therefore, Petitioners' failure to submit a copy of an oath or declaration with the redacted application and the marked-up copy of the application within sixteen months from the earliest effective filing date is deemed as incompliant to the aforementioned statutes and rules.

Petitioners' argument that a submission of an oath or declaration pursuant to 37 CFR 1.217(b) in compliance with electronic filing requirements was impossible as of April 2006, is not persuasive. The electronic filing system allows applicants to submit a copy of an oath or declaration by attaching the file in the same format as a drawing would be attached. Particularly, a copy of the oath or declaration could be attached in such formats as a TIFF or GIF file. Not withstanding an issue with attaching a copy of the oath or declaration with the EFS filing, a paper copy of the oath or declaration was not submitted with the paper marked-up copy of the redacted application nor the request for redacted publication. Although Petitioners further state that a copy of the oath or declaration was later submitted, it remains incompliant with 35 U.S.C. § 122(b)(2)(B)(v) and 37 CFR 1.217 as the submission is untimely.

Petitioners' argument that it was improper for the Office to rewrite 35 U.S.C. § 122(b)(2)(B)(v) to require an oath or declaration is not persuasive, wherein the statue is completely silent with respect to the submission of an oath/declaration. The decision stated that the statute does not provide for the submission of an oath or declaration, outside of the 16 month time period. In accordance with 35 U.S.C. § 122(b)(2)(B)(v), what must be submitted within the 16 month time period is a redacted copy of the "application." As defined in 35 U.S.C. § 111 and 37 CFR 1.51, the application includes an oath or declaration. Accordingly, Petitioners' failure to submit the oath or declaration is noncompliant with the aforementioned statutes and rules.

Petitioners are reminded that 35 U.S.C. § 122(b)(2)(B)(v) provides for redacted publication, and states that an applicant may submit a redacted copy of the application, "eliminating any part of the description of the invention in such application that is not also contained in any of the corresponding applications filed in a foreign country." The oath or declaration is not part of the description of the invention, and thus cannot be redacted entirely from the application. Furthermore, no part of the declaration was submitted in redacted form. Accordingly, Petitioners

did not comply with the provisions of the statute, and the Office has no authority to waive the requirements of the statute.

Petitioners' argument that the oath or declaration is not listed in the documents that must be submitted in 37 CFR 1.217(c) and that if it was a required element, it would be listed and that the Office has not provided a reason for requiring the oath now is not persuasive. The listing of documents in 37 CFR 1.217(c) does not specifically mention the oath, as it is an element of the application. A marked-up copy of the application is listed in the listing in 37 CFR 1.217(c), which necessarily includes the oath as one of the elements of the application in accordance with 35 U.S.C. 111 and 37 CFR 1.51. Similarly, the listing does not specifically mention the abstract, specification, claims or drawings, which were provided by Petitioner in his request as they are parts of the application.' The Office requires multiple copies of submissions and Office actions so that the Office will have an appropriately redacted copy of the entire application that can be provided when the Office needs to provide a member of the public with such a copy.

Decision

The prior decision which refused to grant the petition under 37 CFR 1.181 or 1.182 for waiving the requirement for the submission of an oath or declaration for a redacted publication in accordance with 35 U.S.C. § 122(b)(2)(B)(v) and 37 CFR 1.217 for the above-identified patent application has been reconsidered. For the reasons stated herein, and in the previous decision, however, the request for a redacted publication in this case cannot be granted under 35 U.S.C. § 122(b)(2)(B)(v) and 37 CFR 1.181 and 1.217. Therefore, the petition is denied.

This decision may be viewed as a final agency action. See MPEP § 1002.02(b).

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

Brian E. Hanlon

Brian Hanlon
Director
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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60 EAST SOUTH TEMPLE
SALT LAKE CITY UT 84111

MAILED
MAR 03 2011
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In re Patent No. 7,814,410	:	
Application No. 11/317,973	:	
Filed: December 23, 2005	:	ON PETITION
Issued: October 12, 2010	:	
Attorney Docket No. 13768.972.6.1	:	

This is a decision on the petition filed January 24, 2011, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

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

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-7751. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (703) 756-1814.

Joan Olszewski
Petitions Examiner
Office of Petitions

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

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TUROCY & WATSON, LLP
127 Public Square
57th Floor, Key Tower
CLEVELAND OH 44114

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OFFICE OF PETITIONS

In re Application of :
Richard James SWAN : ON PETITION
Application No. 11/317,988 :
Filed: December 22, 2005 :
Atty. Docket No.: TTCI-001/02US 304258-2006

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the final Office action mailed March 30, 2009 (Office action), which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. The application became abandoned July 1, 2009. A Notice of Abandonment was mailed October 28, 2009.

The petition satisfies the conditions for revival pursuant to 37 CFR 1.137(b) by including (1) a reply in the form of a Request for Continued Examination (RCE), and RCE fee, and a submission under 37 CFR 1.114, (2) a petition fee of $1860, and (3) a statement of unintentional delay. The reply to the Office action is accepted as having been unintentionally delayed.

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

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 date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was intentional, petitioner must notify the Office.

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

The application will be referred to Technology Center Art Unit 3627 for consideration of the submission under 37 CFR 1.114.

Robert DeWitty
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 12/1/10 **Paper No.:** —

TO SPE OF : ART UNIT 3634

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/318109 Patent No.: 7828117B2

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 CHANGES ARE APPROVED AND DON'T CHANGE THE SCOPE OF THE CLAIMS.

DERRY ROSMAN
A.U. 3634
PRIMARY EXAMINER

DAVID DUNN
SUPERVISORY PATENT EXAMINER

O.K. to ENTER. THANKS. 1/19/2011

PTO/SB/44 (09-07)
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(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,828,117 B2

APPLICATION NO.: 11/318,109

ISSUE DATE : November 9, 2010

INVENTOR(S) : Kimberly J. Cole

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

In Column 6, Line number 14, Claim 19 kindly delete "; and".

In Column 6, Line number 15, Claim 19 after "leg;", kindly insert --and--.

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

Burgess Law Office, PLLC
P.O. Box 214329
Auburn Hills, MI 48321-4320

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

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

PTO/SB/131 (01-10)
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REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH**

Attorney Docket Number: P22666	Patent Number: 7,668,524
Filing Date (or 371(b) or (f) Date): 12-23-2005	Issue Date: 02-23-2010
First Named Inventor: Hon-Mo Raymond Law	
Title: CLOCK DESKEWING METHOD, APPARATUS, AND 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 /Philip A. Pedigo/	Date July 12, 2010
Name (Print/Typed) Philip A. Pedigo	Registration Number 52,107

***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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LeMOINE PATENT SERVICES, PLLC
C/O CPA GLOBAL
P. O. BOX 52050
MINNEAPOLIS, MN 55402

Mail Date: 09/13/2010

Applicant	: Hon-Mo Raymond Law	: DECISION ON REQUEST FOR
Patent Number	: 7668524	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/318,118	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/23/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1043** 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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OFFICE OF PETITIONS

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

In re Patent No. 7,886,001
Issued: February 8, 2011
Application No. 11/318,120
Filed: December 23, 2005
Attorney Docket No. 26310-0148001 / 675913

: DECISION ON REQUEST
: FOR RECONSIDERATION
: OF PATENT TERM ADJUSTMENT

This is a decision on the APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d) on April 8, 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 from 660 to 802 days.

The petition to correct the patent term adjustment is **DISMISSED**.

BACKGROUND

On February 8, 2011, the above-identified application matured into U.S. Patent No. 7,886,001, with a revised patent term adjustment of 660 days. On April 8, 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 802. 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 20, 2010, thereby closing examination of the application on that date. Thus, Patentee argues no continued examination took place during the 142 day period from September 20, 2010 (the mailing date of the Notice of Allowance) until February 8, 2011 (the date the patent was issued). As such, Patentee maintains that the "B delay" should include the 142 days and be increased from 265 to 407 days. Patentee concludes that the correct patent term adjustment is 802 days (the sum of 480 days of "A delay" and 407 days of "B delay" minus 85 days of Applicant delay).

RELEVANT STATUTE AND REGULATIONS

The statutory basis for calculation of "B delay" is 35 U.S.C. 154(b)(1)(B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY, which provides that:

Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including —

(i) any time consumed by continued examination of the application requested by the applicant under section 132(b);
(ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or
(iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued.

The implementing regulation, 37 CFR 1.702(b) provides that:

Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application, but not including:
(1) Any time consumed by continued examination of the application under 35 U.S.C. 132(b);
(2) Any time consumed by an interference proceeding under 35 U.S.C. 135(a);
(3) Any time consumed by the imposition of a secrecy order under 35 U.S.C. 181;
(4) Any time consumed by review by the Board of Patent Appeals and Interferences or a Federal court; or
(5) Any delay in the processing of the application by the Office that was requested by the applicant.

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 265 days based on the application having been filed under 35 U.S.C.

111(a) on December 23, 2005 and the patent not having issued as of the day after the three year date, December 23, 2008, and a request for continued examination under 132(b) having been filed on September 15, 2009. In other words, the 142-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

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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.

filed in an application, any further processing or examination of the application, including granting of a patent, is by virtue of the continued examination given to the application under 35 U.S.C. 132(b) and CFR 1.114. See Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term, 65 Fed. Reg. 56366, 56376 (Sept. 18, 2000) (response to comment 8). Thus, the excluded period begins with the filing of the request for continued examination and ends with the issuance of the patent.

Patentee's argument that the period of time after the issuance of a notice of allowance on a request for continued examination is not "any time consumed by continued examination requested by the applicant under section 132(b)" within the meaning of 35 U.S.C. 154(b)(1)(B)(i) is not availing. This limitation is not supported by the statutory language. Garcia v. United States, 469 U.S. 70, 75 (1984) ("only the most extraordinary showing of contrary intentions from [legislative history] would justify a limitation on the 'plain meaning' of the statutory language"). BP Am. Prod. Co. v. Burton, 549 U.S. 84, 91 (2006) ("Unless otherwise defined, statutory terms are generally interpreted in accordance with their ordinary meaning"). The statute provides for a guarantee of no more than 3-year application pendency, by providing for an adjustment in the patent term:

First, "Subject to the limitations of paragraph (2)," means that the limitations of paragraph 2 apply to this paragraph's adjustment of patent term. That is, the day-to-day extension of patent term for pendency beyond the 3 year period is restricted as follows: 1) "B delay" cannot accrue for days of "A delay" that overlap, 2) the patent term cannot be extended beyond disclaimed term, and 3) the period of adjustment, including accrued "B delay," will be reduced for applicant delay.

Second, "if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States," meaning that the condition must first occur that the issuance of an original patent (35 U.S.C. 153), not merely the issuance of a notice of allowance, is delayed due to the Office's failure to issue a patent (sign and record a patent grant in the name of the United States), not merely mail a notice of allowance, within 3 years after the actual filing date of the application in the United States. This provision gives the Office a three-year period to issue a patent (sign and record a patent grant in the name of the United States) after the application filing date before an adjustment will accrue for "B delay."

Third, "not including- (i) any time consumed by continued examination of the application requested by the applicant under section 132(b); (ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or (iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the

applicant except as permitted by paragraph (3)(C), meaning that the three-year period does not include "any time consumed by" or "any delay in processing," as specified in clauses (i)-(iii). This language correlates to 35 U.S.C. 154(b)(1)(A) which likewise provides the basis for determining the period given the Office to take the specified actions before an adjustment will accrue for "A delay" (e.g., extended for 1 day after the day after the period specified in clauses (i)-(iv)).

Furthermore, these clauses are interpreted using their ordinary meanings. Nonetheless, the context of the legislation should be considered. As stated in Wyeth v. Dudas, 580 F.Supp.2d 138, 88 U.S.P.Q.2d 1538 (D.D.C., 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

[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.

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

[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.

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 September 15, 2009, and the patent issued by virtue of that request on February 8, 2011. Pursuant to 35 U.S.C. 154(b)(1)(B)(i), the period beginning on September 15, 2009 and ending on February 8, 2011 is not included in calculating Office delay.

CONCLUSION

In view thereof, it is concluded that the patent term adjustment of 660 days indicated on the patent is correct.

The Office acknowledges the 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 Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

September 27, 2011

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

In re Application of	:	
Joan V. Brennan et al.	:	**DECISION ON PETITION**
Application No. 11318174	:	
Filed: 12/23/2005	:	***ACCEPTANCE OF COLOR***
Attorney Docket No. 60902US002	:	***DRAWINGS***

This is a decision on the Petition to Accept Color Drawings under 37 C.F.R 1.84 (a) (2), received in the United States Patent and Trademark Office (USPTO) December 23, 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.

/Don Fairchild/
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

MAILED
AUG 08 2011
OFFICE OF PETITIONS

EPSTEIN DRANGEL LLP
60 EAST 42ND STREET
SUITE 2410
NEW YORK NY 10165

In re Application of	:	
Donald NEVIN	:	ON PETITION
Application No. 11/318,202	:	
Filed: December 23, 2005	:	
Atty. Docket No.: 1714-004		

This is a decision on the petition under 37 CFR 1.137(b), filed July 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 Notice of Allowance and Fee(s) Due mailed April 11, 2011 (Notice), which set a statutory period for reply of three (3) months. The application became abandoned on July 12, 2011. A Notice of Abandonment was mailed July 27, 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 fee in accordance with the Notice, (2) a petition fee of $810, and (3) a statement of unintentional delay. The reply to the Notice is accepted as having been unintentionally delayed.

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

The application will be referred to Office of Data Management for further processing.

Rajneesh Krishnamurthy
for Anthony Knight
Director
Office of Petitions

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COMMISSIONER FOR PATENTS
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Paper No.

Gilman Pergament LLP
1480 Route 9 North
Suite 204
Woodbridge NJ 07095

MAILED
JUN 28 2011
OFFICE OF PETITIONS

In re Application of	:	
Tom Evslin	:	DECISION ON PETITION
Application No. 11/318,223	:	
Filed: December 22, 2005	:	
Atty Docket No. 449-108X2	:	

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) filed April 11, 2011.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a reply to the non-final Office action mailed September 9, 2010. This Office action set a shortened statutory period for reply of three (3) months, with extensions of time obtainable under § 1.136(a). No reply considered timely filed and no extension of time considered obtained, the application became abandoned effective December 10, 2010. A courtesy Notice of Abandonment was mailed on March 31, 2011.

The petition includes the required reply, the statement of unintentional delay and payment of the petition fee. No terminal disclaimer is required.

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 April 11, 2011 was submitted subsequent to the

maximum extendable period for reply which ended March 10, 2011, this fee is unnecessary and is being refunded.

Technology Center AU 2614 has been advised of this decision. The application is, thereby, forwarded to the examiner for consideration of the reply submitted on petition filed April 11, 2011.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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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Hall, Estill, Hardwick, Gable, Golden & Nelson, P.C.
100 North Broadway
Chase Tower, Suite 2900
Oklahoma City OK 73102

MAILED
DEC 15 2010
OFFICE OF PETITIONS

In re Application of :
Scott Cordray :
Application No. 11/318,288 : DECISION ON PETITION
Filed: December 23, 2005 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 812124.01560 :

This is a decision on the petition, filed October 25, 2010, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on November 1, 2006. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 22(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of March 17, 2011 accompanies this decision on petition.

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

This application is being forwarded to Files Respository.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/318,288	12/23/2005	Scott Cordray	812124.01560

CONFIRMATION NO. 4435

72766
Hall, Estill, Hardwick, Gable, Golden &
Nelson, P.C.
100 North Broadway
Chase Tower, Suite 2900
Oklahoma City, OK 73102

NONPUBLICATION RESCISSION LETTER

OC000000044894098

Date Mailed: 12/09/2010

Communication Regarding Rescission Of Nonpublication Request and/or Notice of Foreign Filing

Applicant's rescission of the previously-filed nonpublication request and/or notice of foreign filing is acknowledged. The paper has been reflected in the Patent and Trademark Office's (USPTO's) computer records so that the earliest possible projected publication date can be assigned.

The projected publication date is 03/17/2011.

If applicant rescinded the nonpublication request before or on the date of "foreign filing,"[1] then no notice of foreign filing is required.

If applicant foreign filed the application after filing the above application and before filing the rescission, and the rescission did not also include a notice of foreign filing, then a notice of foreign filing (not merely a rescission) is required to be filed within 45 days of the date of foreign filing. See 35 U.S.C. § 122(b)(2)(B)(iii), and Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. § 122(b)(2)(B)(ii)-(iv), 1272 Off. Gaz. Pat. Office 22 (July 1, 2003).

If a notice of foreign filing is required and is not filed within 45 days of the date of foreign filing, then the application becomes abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii). In this situation, applicant should either file a petition to revive or notify the Office that the application is abandoned. See 37 CFR 1.137(f). Any such petition to revive will be forwarded to the Office of Petitions for a decision. Note that the filing of the petition will not operate to stay any period of reply that may be running against the application.

Questions regarding petitions to revive should be directed to the Office of Petitions at (571) 272-3282.

[1] Note, for purpose of this notice, that "foreign filing" means "filing an application directed to the same invention in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing".

/kainabinet/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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TAROLLI, SUNDHEIM, COVELL
& TUMMINO L.L.P.
1300 EAST NINTH STREET, SUITE 1700
CLEVELAND, OH 44114

MAILED

FEB 28 2011

OFFICE OF PETITIONS

In re Patent No. 7,442,335 :
Issue Date: October 28, 2008 :
Application No. 11/318,289 : NOTICE
Filed: December 23, 2005 :
Attorney Docket No. RIP-8086-2 :

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

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

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

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

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

Thurman K. Page
Petitions Examiner
Office of Petitions

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MAYER & WILLIAMS PC
251 NORTH AVENUE WEST
SUITE 201
WESTFIELD NJ 07090

MAILED

MAY 25 2011

OFFICE OF PETITIONS

In re Application of
Thomas Hanke et al.
Application No. 11/318,352
Filed: December 23, 2005
Attorney Docket No.: 7003/48

ON PETITION

This is a decision on the petition filed May 10, 2011 under 37 CFR 1.137(b)[1], to revive the above-identified application.

The petition is **GRANTED**.

A Restriction Requirement mailed on December 30, 2009 set the longer of one month or thirty days as the period for reply. No response to the December 30, 2009 Restriction Requirement having been timely filed, the application became abandoned February 2, 2010. Accordingly, the Notice of Abandonment was mailed September 30, 2010.

The petition fee in the amount of $810.00 has been charged to deposit account no. 50-1047

The response to the Restriction Requirement filed March 2, 2011 will be referred to Technology Center 1644 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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[1]Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

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

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

MAILED
JUN 03 2011
OFFICE OF PETITIONS

In re Application of :
Anderson et al. :
Application No. 11/318,396 : ON PETITION
Filed: December 22, 2005 :
Attorney Docket No. 5957-03013 :

This is a decision on the petition, filed May 23, 2011, under 37 CFR 1.47(a). The petition will be treated as a petition under CFR 1.183, requesting waiver of 37 CFR 1.63 and 1.67, which requires all of the joint inventors to execute a supplemental declaration.[1]

The petition under 37 CFR 1.183 to waive 37 CFR 1.63 and 1.67 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. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.183 to waive 37 CFR 1.63 and 1.67" and may include an oath or declaration executed by the inventors. **Failure to respond will result in abandonment of the application.**

While this waiver petition is not a petition under 37 CFR 1.47, it is evaluated in much the same way a Rule 47 petition is. Therefore, a grantable petition requires:

(1) a petition including proof of the pertinent facts establishing that the joint inventor(s) refuses to join, or cannot be found or reached after diligent effort,
(2) a proper oath or Declaration executed by the available joint inventor(s),
(3) a petition fee, and
(4) the last known address of the omitted inventor(s).

This petition does not meet requirement (2) above.

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

With respect to (2) above, the petition states a declaration executed by co-inventor Craig Miller was submitted on May 23, 2011. The undersigned cannot locate the aforementioned declaration in the application file. A supplemental declaration executed by the cooperating inventor must be filed.

Regarding fees, the current Rule 183 petition fee is $400.00. Petitioner has paid only $200.00. Accordingly, deposit account no. 50-1505 will be charged the $200.00 balance due.

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

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

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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MEYERTONS, HOOD, KIVLIN, KOWERT & GOETZEL, P.C.
P.O. BOX 398
AUSTIN TX 78767-0398

MAILED
JUL 18 2011
OFFICE OF PETITIONS

In re Application of	:	
Anderson et al.	:	
Application No. 11/318,396	:	ON PETITION
Filed: December 22, 2005	:	
Attorney Docket No. 5957-03013	:	

This is a decision on the renewed petition, filed June 16, 2011, under CFR 1.183, requesting waiver of 37 CFR 1.63 and 1.67, which requires all of the joint inventors to execute a supplemental declaration.

The petition under 37 CFR 1.183 to waive 37 CFR 1.63 and 1.67 is **GRANTED**.

Petitioner has established that despite diligent efforts, the non-signing joint inventor, Jock Andrews, remains unavailable. In view of the inability to locate Mr. Andrews, it is agreed that justice would be served by waiving the requirement for his signature on the supplemental reissue declaration filed June 16, 2011. It is noted that the signatures of Keith Anderson, Larry G. Erdmann, Richard Christensen, Marcio Pugina, Jason S. Veech, and Kevin J. Peppin are excused based on Rule 47 status being granted in a decision mailed, January 16, 2007.

The aforementioned supplemental declaration has been accepted, on petition, and placed in the file.

This application is being forwarded to Technology Center G.A.U. 2475 for examination in due course.

Telephone inquiries 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

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.
11/318,427	12/23/2005	Richard L. Anglin JR.	SVIPGP091A	3620

92045 7590 04/18/2011
The Caldwell Firm, LLC
PO Box 59655
Dept. SVIPGP
Dallas, TX 75229

EXAMINER
RABOVIANSKI, JIVKA A

ART UNIT	PAPER NUMBER
2426	

NOTIFICATION DATE	DELIVERY MODE
04/18/2011	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):

pcaldwell@thecaldwellfirm.com
lcaldwell@thecaldwellfirm.com
depoma@stragent.com

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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APR 18 2011

DIRECTOR OFFICE
TECHNOLOGY CENTER 2400

The Caldwell Firm, LLC
PO Box 59655
Dept. SVIPGP
Dallas TX 75229

I n re Application of: Richard Anglin	)	
Application No. 11/318,427	)	**DECISION ON PETITION TO**
Attorney Docket No. SVIPGP091A	)	**WITHDRAW RESTRICTION**
File: December 23, 2005	)	**REQUIREMENT UNDER 37 CFR**
For: **CONTENT EXCHANGE SYSTEM**	)	**§1.144**

This is a decision on the petition filed March 4, 2011 under 37 C.F.R. §1.144 and/or 37 C.F.R. §1.181 to withdraw an outstanding restriction requirement.

The petition is **GRANTED.**

RELEVANT PROSECUTION HISTORY

December 23, 2005	The application identified above was filed with method claims 1-141.
March 23, 2009	A restriction requirement of subcombinations useable together grouping claims 1-141 into nine separate groups was mailed out.
March 30, 2009	A first Amendment and response to the restriction requirement electing claims 1-20 and 23-37 without traverse was the filed by petitioner. Originally filed claims 1-20 and 23-37 were changed from method to system claims. Claims 38-133 were canceled. The status of claims 134-141 are unknown.
May 26, 2009	A non-final Office action was mailed rejecting claims 1-20 and 23-37.
October 26, 2009	A second Amendment and remarks were filed having the following claim status: one or more of claims 1-20 & 23-37 were amended, claims 21, 22, 38-133 were canceled and claims 134-156 were newly added.

February 26, 2010	A first notice of non-compliant amendment indicated one or more of claims 1-20, 23-37 were amended and newly added claims 134-156 are directed to non-elected invention. (note that claims 134-156 are improperly added, claim numbering should begin from 142)
April 26, 2010	A third Amendment and remarks were filed having the following claim status: one or more of claims 1-20 & 23-37 were amended, claims are 21, 22, 38-133 were canceled and claims 134-156 were newly added
July 16, 2010	A second notice of non-compliant amendment indicated that newly added claims 134-156 should be renumbered to 142-164.
October 18, 2010	A fourth Amendment and remarks were filed having the following claim status: one or more of claims 1-20 & 23-37 were amended, claims 21-22, 38-164 were canceled and claims 165-187 were newly added.
January 20, 2011	A third notice of non-compliant amendment indicated that amended claims 1-20, 23-37 and newly added claims 165-187 are directed to non-elected inventions
March 4, 2011	A formal Petition to withdrawn the restriction requirement was filed.

REGULATIONS AND PRACTICE

37 C.F.R. § 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 C.F.R. § 1.144 states:

> After a final requirement for restriction, the applicant, in addition to making any reply due on the remainder of the action, may petition the Commissioner to review the requirement ... A petition will not be considered if reconsideration of the requirement was not requested (see § 1.181).

37 C.F.R. § 1.145 states:

> If, after an office action on an application, the applicant presents claims directed to an invention distinct from and independent of the invention previously claimed, the applicant will be required to restrict the claims to the invention previously claimed if the amendment is entered, subject to reconsideration and review as provided in § § 1.143 and 1.144.

37 C.F.R. § 1.181 states:

> (a) Petition may be taken to the Commissioner:
> (1) From any action or requirement of any examiner in the ex parte prosecution of an application, or in ex parte or inter partes prosecution of a reexamination proceeding which is not subject to appeal to the Board of Patent Appeals and Interferences or to the court;
> (2) In cases in which a statute or the rules specify that the matter is to be determined directly by or reviewed by the Commissioner; and
> (3) To invoke the supervisory authority of the Commissioner in appropriate circumstances. For petitions in interferences, see § 1.644.
> (b) Any such petition must contain a statement of the facts involved and the point or points to be reviewed and the action requested. Briefs or memoranda, if any, in support thereof should accompany or be embodied in the petition; and where facts are to be proven, the proof in the form of affidavits or declarations (and exhibits, if any) must accompany the petition.
> (c) When a petition is taken from an action or requirement of an examiner in the ex parte prosecution of an application, or in the ex parte or inter partes prosecution of a reexamination proceeding, it may be required that there have been a proper request for reconsideration (§ 1.111) and a repeated action by the examiner. The examiner may be directed by the Commissioner to furnish a written statement, within a specified time, setting forth the reasons for his or her decision upon the matters averred in the petition, supplying a copy to the petitioner.

MPEP § 803 states:

> Under the statute an application may properly be required to be restricted to one of two or more claimed inventions only if they are able to support separate patents and they are either independent (MPEP § 806.04 - § 806.04(i)) or distinct (MPEP § 806.05 - § 806.05(i)).
> If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions.

> CRITERIA FOR RESTRICTION BETWEEN PATENTABLY DISTINCT INVENTIONS
> There are two criteria for a proper requirement for restriction between patentably distinct inventions:
> (A) The inventions must be independent (see MPEP § 802.01, § 806.04, § 808.01) or distinct as claimed (see MPEP § 806.05 - § 806.05(i)); and
> (B) There must be a serious burden on the examiner if restriction is required (see MPEP § 803.02, § 806.04(a) - § 806.04(i), § 808.01(a), and § 808.02).... For purposes of the initial requirement, a serious burden on the examiner may be *prima facie* shown if the examiner shows by appropriate explanation of separate classification, or separate status in the art, or a different field of search as defined in MPEP § 808.02....

MPEP § 821.01 states:

> Where the initial requirement is traversed, it should be reconsidered. If, upon reconsideration, the examiner is still of the opinion that restriction is proper, it should be repeated and made final in the next Office action. (See MPEP § 803.01.) In doing so, the examiner should reply to the reasons or arguments advanced by applicant in the traverse. Form paragraph 8.25 should be used to make a restriction requirement final.

DECISION

37 C.F.R. § 1.181(c) requires that an action by an examiner, to be properly petitionable, must be followed by a request for reconsideration, and a repeated action by the examiner. 37 C.F.R. § 1.144 states that the applicant may petition the Commissioner after a final requirement for the restriction has been made.

In the above-identified application, applicant filed two requests for reconsideration, one on April 26, 2010 and the other on October 18, 2010, both in accordance with 37 C.F.R. § 1.143. Although the restriction was never made final in accordance with MPEP § 821.01, the initial restriction requirement was maintained in subsequent Office communications dated July 16, 2010 and January 20, 2011. To expedite prosecution of this application, these Office communications, which maintained the restriction requirement, are being treated as a Final restriction requirement.

The issue presented in the petition is whether the restriction based on original presentation under 37 C.F.R. § 1.145 is proper under the current regulations and practice.

MPEP § 803 sets forth two criteria for a proper restriction requirement between patentably distinct inventions: (A) the inventions must be independent or distinct as claimed and (B) there must be a serious burden on the examiner.

Thus, to be proper, (A) claims 1-20 and 23-37 (filed on 10/18/2010) should be a distinct invention from claims 1-20 and 23-37 (filed on 3/30/2009); specifically, the **at least one interface** including of the "category indicia", "search bar", "content selection indicia", "synopsis..", "preview indicia" , "delivery indicia", "at least one summary", "delivery information...", "option indicia", "account login fields..", "new account indicia...account, personal information, payment, new login identifier, new password", "logout indicia " and "....downloading to a content terminal that is identified utilizing a unique identifier of claim 1 (filed on 10/18/2010) must be patentably distinct from the broad or non specific "at least one interface" and "downloading" limitation of previously presented claim 1 (filed on 3/30/2009), and (B) there must be a serious burden on the examiner to search and consider these additional features beyond the search and consideration required for the original claims.

Since (1) the broadly defined, non specific "at least one interface" was initially searched and considered, and (2) the amendment narrows the "at least one interface", to apparent specific displayable indicia (i.e. items on a screen) then the inventions are not distinct.

The amended claims require the examiner to search additional areas including but not limited to class 725, subclasses 1-8, 25-30, 37-52 and possible classes 705, 345 and 715. Although there is serious burden on the examiner to search and consider the newly added limitations, the requirement requires both distinct inventions and burden.

For the above reasons, the petition is **GRANTED**.

The restriction requirement is hereby **WITHDRAWN**.

The application will be forwarded to the examiner for consideration on the merits of claims 1-20, 23-37 and 165-187 filed October 18, 2010.

/Christopher Grant/
Christopher Grant
WQAS, TC 2400
Networks, Multiplex, Cable and Security
(571) 272-7294

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MAYER BROWN LLP
P.O. BOX 2828
CHICAGO IL 60690

MAILED

DEC 06 2010

OFFICE OF PETITIONS

In re Application of
Xiaorong You et al
Application No. 11/318,639
Filed: December 28, 2005
Attorney Docket No. **102456-05169826**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the request to withdraw as attorney of record under 37 CFR § 1.36(b), filed August 5, 2010.

The request is **NOT APPROVED**.

The request cannot be approved because it lacks the name of the first inventor or the assignee of record that is associated with the address listed in the request. Therefore, the change of correspondence address is considered improper.

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

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

The assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, the statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

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

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

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

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Steve ANGELICA
954 PALM AVE., #103
WEST HOLLYWOOD CA 90069

MAILED

AUG 02 2010

OFFICE OF PETITIONS

In re Application of	:	
The PEN	:	
Application No. 11/318,657	:	DECISION ON PETITION
Filed: December 27, 2005	:	
Attorney Docket No.	:	

This is a decision on the petition under 37 CFR 1.182, filed, June 14, 2010, to change the name of inventor "Steve Angelica" to – The Pen --.

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.

The request to waiver the petition fee under 37 CFR 1.182, is not granted. In this regard, the petition fee is required as a provision for processing the petition.

Any questions concerning this matter may be directed to Diane Goodwyn at (571) 272-6735.

Any questions should be directed to the Office of Data Management at (571) 272-4000.

This matter is being referred to the Office of Data Management.

Thurman K. Page
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/318,657	12/27/2005	3625	500		20	2

CONFIRMATION NO. 7312

CORRECTED FILING RECEIPT

Steve Angelica
954 Palm Ave., #103
West Hollywood, CA 90069

OC000000042777217

Date Mailed: 07/28/2010

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)

The PEN, West Hollywood, CA;

Power of Attorney: None

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 02/07/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/318,657**

Projected Publication Date: Not Applicable

Non-Publication Request: No

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

Title

INTERACTIVE ELECTRONIC DESKTOP ACTION METHOD AND SYSTEM

Preliminary Class

705

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

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

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

NOT GRANTED

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

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THE PEN
954 PALM AVE., #103
WEST HOLLYWOOD CA 90069

MAILED

AUG 13 2010

OFFICE OF PETITIONS

In re Application of	:	
The PEN	:	CORRECTED
Application No. 11/318,657	:	DECISION ON PETITION
Filed: December 27, 2005	:	
Attorney Docket No.	:	

This is a decision on the petition under 37 CFR 1.182, filed, June 14, 2010, to change the name of inventor "Steve Angelica" to – The Pen --.

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.

The request to waiver the $400 petition fee under 37 CFR 1.182, is not granted. In this regard, the petition fee is required as a provision for processing the petition.

Petitioner alternatively request that the Office of Petitions in one action for the single fee of $400, change the legal name in the instant application and do likewise in application Nos. 10/833,971, 11/845,595 and 11/681,565. Petitioner is directed to 35 USC 41(d), 37CFR 1.17(f) and 37 CFR 1.4(b) and (c). Except by an occasional or incidental request made by the head of a department or agency of the government, or a fee paid by mistake or excess, the Office of Petitions does not have the authority to waive fees.

Additionally, 37 CFR 1.14(b) and (c) does not permit the filing of a single request for a name change to pertain to any other application. Request for waiver of a rule or the suspension must be submitted under 37 CFR 1.183 with appropriate fee. See 37 CFR 1.17 (f)

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

All other questions should be directed to the Office of Data Management at (571) 272-4000.

This matter is being referred to the Office of Data Management.

Thurman K. Page
Petitions Examiner
Office of Petitions

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OCT 14 2010

OFFICE OF PETITIONS

PATENT DEPT
INTUITIVE SURGICAL OPERATIONS, INC
1266 KIFER RD
BUILDING 101
SUNNYVALE CA 94086

In re Application of	:	
Miller, Brian	:	
Application No. 11/318,794	:	ON PETITION
Filed: December 27, 2005	:	
Attorney Docket No. 22001-3000	:	

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

The petition is **GRANTED**.

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

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed solely to the address currently of record until such time as appropriate instructions are received to the contrary.

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

This matter is being referred to Technology Center AU 3734 for processing of the RCE filed concurrently with the instant petition.

Liana Walsh
Petitions Examiner
Office of Petitions

cc: VICTOR OKUMOTO
38802 LITCHFIELD CIRCLE
FREMONT, CA 94536

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 01/27/11

TO SPE OF : ART UNIT 2829

SUBJECT : Request for Certificate of Correction for Appl. No.: 11318822 Patent No.: 7632708

CofC mailroom date: 01/13/11

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580
You can fax the Directors/SPE response to 571-270-9990

Certificates of Correction Branch
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: _____

Steven Ashe
SPE

2818
Art Unit

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PAUL W MARTIN
NCR CORPORATION LAW DEPT
3097 SATELLITE BLVD 2nd FLOOR
DULUTH GA 30096

MAILED
JUL 19 2011
OFFICE OF PETITIONS

In re Application of	:	
Timothy W. Rawlings	:	
Application No. 11/318,848	:	ON PETITION
Filed: December 27, 2005	:	
Attorney Docket No. 12360	:	

This is a decision on the petition to revive under 37 CFR 1.137(b), filed June 27, 2011.

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

The above-identified application became abandoned for failure to timely file a reply in response to the non-final Office action mailed November 8, 2010. This Office action set a shortened statutory period for reply of three months. No reply having been received, the application became abandoned on February 9, 2011. The Office mailed a Notice of Abandonment on June 23, 2011.

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

The application is being forwarded to Group Art Unit 1745 for consideration of the Amendment, filed June 27, 2011.

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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PATENT DEPT
INTUITIVE SURGICAL OPERATIONS, INC
1266 KIFER RD
BUILDING 101
SUNNYVALE CA 94086

MAILED
OCT 25 2010
OFFICE OF PETITIONS

In re Application of	:	
Yulun Wang, et al.	:	
Application No. 11/319,005	:	DECISION GRANTING PETITION
Filed: November 27, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 022001-000834/US	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, October 25, 2010 to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on June 29, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 3769 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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MAILED
JUN 13 2011
OFFICE OF PETITIONS

SMITH RISLEY TEMPEL SANTOS LLC
TWO RAVINIA DRIVE
SUITE 700
ATLANTA, GA 30346

In re Patent No. 7,877,455	:	
Issue Date: January 25, 2011	:	
Application No.: 11/319,030	:	ON PETITION
Filed: December 27, 2005	:	
Attorney Docket No.: 19012.1130	:	

This is a decision in response to a petition filed May 3, 2011, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (703) 756-1814.

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

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

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Paper No.

KATTEN MUCHIN ROSENMAN LLP
575 MADISON AVENUE
NEW YORK NY 10022-2585

MAILED
OCT 18 2010
OFFICE OF PETITIONS

In re Patent No. 7688914	:	DECISION ON REQUEST
Ohba et al.	:	FOR
Issue Date: 03/30/2010	:	RECONSIDERATION OF
Application Number: 11/319046	:	PATENT TERM ADJUSTMENT
Filing or 371(c) Date: 12/27/2005	:	
Atty Docket No.	:	
FUJI 22.318 (100794-01022	:	

This is a decision on the petition filed on July 20, 2010, which is being treated as a renewed petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by nine hundred seventy-four (974) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by nine hundred seventy-four (974) days is **GRANTED**.

As there is no change from the patent term adjustment listed on the face of the issued patent, no Certificate of Correction is necessary. No Certificate of Correction will be issued.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Kateshov Yuni
174 Ferndale Road
Scarsdale NY 10583

MAILED

NOV 29 2010

OFFICE OF PETITIONS

In re Application of
Lucien C. Ducret
Application No. 11/319,089
Filed: December 28, 2005
Attorney Docket No. ST-007

DECISION ON PETITION

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

The petition is **DISMISSED**.

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

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of June 19, 2009. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). *See* MPEP 711.03(c)(III)(A)(2). Since the amendment submitted does not *prima facie* place the application in condition for allowance, 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 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) above.

As to item (1), receipt is acknowledged of the RCE filed with the instant petition. However, petitioner submitted $165.00 by check for the RCE, but the amount for a RCE is $405.00. Further review of the record confirms that a general authorization to charge a deposit account is not present. Therefore, this application cannot be revived until the remaining $240.00 for the RCE is received.

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) 272-3213.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Kateshov Yuni
174 Ferndale Road
Scarsdale NY 10583

MAILED

APR 06 2011

OFFICE OF PETITIONS

In re Application of :
Lucien C. Ducret :
Application No. 11/319,089 : DECISION ON PETITION
Filed: December 28, 2005 :
Attorney Docket No. ST-007 :

This is a renewed 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 reply within the meaning of 37 CFR 1.113 to the final Office action, mailed June 19, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned at midnight September 19, 2009.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3213.

This application is being referred to Technology Center AU 3724 for processing of the RCE in accordance with 37 CFR 1.114.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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FITCH EVEN TABIN & FLANNERY
120 SOUTH LASALLE STREET
SUITE 1600
CHICAGO IL 60603-3406

MAILED

OCT 20 2010

OFFICE OF PETITIONS

In re Application of	:	
Ricardo VILLOTA, et al.	:	
Application No. 11/319,149	:	DECISION ON PETITION
Filed: December 27, 2005	:	
Attorney Docket No. 1410/77314	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 02, 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 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 January 03, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1,620.00, and (3) a proper statement of unintentional delay. Accordingly, the reply to the Office action of October 02, 2009 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571)272-4231.

This application is being referred to Technology Center AU 1789 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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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON DC 20037

MAILED
DEC 16 2010
OFFICE OF PETITIONS

In re Patent No. 7,748,426	:	
Issue Date: 07/06/2010	:	
Application No. 11/319,236	:	ON PETITION
Filed: 12/27/2005	:	
Attorney Docket No. Q105067	:	

This is a decision on the petition under 37 CFR 3.81(b) filed October 20, 2010.

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

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

The Certificates of Correction Branch issued the requested Certificate of Correction on November 30, 2010.

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

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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Decision Date : June 8,2011

In re Application of :

Kimihiko Nishioka

DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 11319283

Filed : 29-Dec-2005

Attorney Docket No : 1414/13

This is an electronic decision on the petition under 37 CFR 1.313(c)(2), filed June 8,2011 , to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid 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 2873 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	11319283
Filing Date	29-Dec-2005
First Named Inventor	Kimihiko Nishioka
Art Unit	2873
Examiner Name	JACK DINH
Attorney Docket Number	1414/13
Title	MEDIUM EXHIBITING NEGATIVE REFRACTION, OPTICAL ELEMENT, AND OPTICAL SYSTEM

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

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

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

Petition Fee

- ☐ Applicant claims SMALL ENTITY status. See 37 CFR 1.27.
- ☐ Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).
- ☐ Applicant(s) status remains as SMALL ENTITY.
- ☒ Applicant(s) status remains as other than SMALL ENTITY

Reason for withdrawal from issue

○ One or more claims are unpatentable

◉ Consideration of a request for continued examination (RCE) (List of Required Documents and Fees)

○ Applicant hereby expressly abandons the instant application (any attorney/agent signing for this reason must have power of attorney pursuant to 37 CFR 1.32(b)).

RCE request,submission, and fee.

☐ I certify, in accordance with 37 CFR 1.4(d)(4) that : The RCE request ,submission, and fee have already been filed in the above-identified application on

☒ Are attached.

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

◉ An attorney or agent registered to practice before the Patent and Trademark Office who has been given power of attorney in this application.

○ An attorney or agent registered to practice before the Patent and Trademark Office, acting in a representative capacity.

○ A sole inventor

○ A joint inventor; I certify that I am authorized to sign this submission on behalf of all of the inventors

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

○ The assignee of record of the entire interest that has properly made itself of record pursuant to 37 CFR 3.71

Signature	/Richard M. Rosati/
Name	Richard M. Rosati
Registration Number	31792

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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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MAR 21 2012
OFFICE OF PETITIONS

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

In re Application of	:	
Hong Suk Yoo et al	:	
Application No. 11/319,302	:	DECISION DISMISSING PETITION
Filed: December 27, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 10125-4214	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 7, 2012, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED AS MOOT**.

Unfortunately, the petition did not get to the proper deciding official in time to process the petition prior to the patent issue. Therefore, as the case has now issued, the petition to withdraw from issue cannot be granted. However, petitioner's attention is directed to 37 CFR 1.313(d), which states:

> A petition under this section will not be effective to withdraw the application from issue unless it is actually received and granted by the appropriate officials **before the date of issue**.

The request for continued examination (RCE) filed February 28, 2012 is improper in view of the issuance of this application into a patent and will not be processed. Accordingly, the $930 filing fee and the $130 petition fee submitted are unnecessary and will be refunded in due course.

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

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

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Date Mailed : 09/22/11

Patent No. : 7916207 B2
Inventor : **Moon , et al.**
Patent Issued : **March 29, 2011**
Docket No. : **21538US01**

Re: Request for Certificate of Correction

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

Inspection of the file of the application for the patent reveals that in column 1, line 4 is printed in accordance with the record (no fee or authorization to charge fee). **"Therefore, no correction(s) is in order here under United States Codes (U.S.C.) 254 and the Code of Federal Regulation (C.F.R.) 1322."**

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

Lamonte M. Newsome
For Mary Diggs, Supervisor
Decisions & Certificates
Of Correction Branch
(571) 272-3421 or (703) 305-8309

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

Lmn

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ALEXANDRIA, VA 22313-1450
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QUARLES & BRADY LLP
411 E. WISCONSIN AVENUE
SUITE 2040
MILWAUKEE WI 53202-4497

MAILED

FEB 18 2011

OFFICE OF PETITIONS

In re Application of	:	
Karl et al.	:	
Application No. 11/320,153	:	DECISION ON PETITION
Filed: 12/28/2005	:	
Attorney Docket No. MGH-070PUS	:	

This is a decision on the petition under 37 CFR 1.137(a), filed January 14, 2011, which is being treated as a petition under 37 CFR 1.181 to withdraw 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 June 25, 2010, which set a three month shortened statutory period for reply. A Notice of Abandonment was mailed on January 5, 2011.

Petitioners assert that they did not receive the non-final Office action of June 25, 2010, and the Notice of Abandonment of January 5, 2011, because they were mailed to an incorrect correspondence address.

A review of the written record indicates an irregularity in the mailing of the non-final Office action of June 25, 2010, and the Notice of Abandonment of January 5, 2011. On June 8, 2010, prior to the mailing of the non-final Office action, the USPTO received a Statement Under 37 CFR 3.73(b), a revocation of power of attorney with a new power of attorney appointing the practitioners associated with Customer Number 26710 and a request to change the correspondence address of record to the address associated with Customer Number 26710. The USPTO records were not timely updated to reflect this new change of power of attorney and correspondence address. Consequently, the USPTO mailed the non-final Office action and the Notice of Abandonment to an incorrect address.

As the Office action was mailed to an incorrect address, the holding of abandonment is withdrawn. The application is hereby restored to pending status. The $270.00 petition fee is not required and will be refunded in due course.

Additionally, the Office notes that 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). As the $555.00 extension of time fee submitted with the petition was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be refunded.

This application is being referred to Technology Center Art Unit 2624.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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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
11/320,153	12/28/2005	William C. Karl	MGH-070PUS

CONFIRMATION NO. 7275

POA ACCEPTANCE LETTER

26710
QUARLES & BRADY LLP
411 E. WISCONSIN AVENUE
SUITE 2040
MILWAUKEE, WI 53202-4497

OC000000046051225

Date Mailed: 02/17/2011

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/08/2010.

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.

/ctdonnell/

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

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YOUNG BASILE
3001 WEST BIG BEAVER ROAD
SUITE 624
TROY MI 48084

MAILED
JUL 15 2011
OFFICE OF PETITIONS

In re Application of	:	
David A. Berry et al.	:	
Application No. 11/320,218	:	DECISION ON PETITION
Filed: December 28, 2005	:	
Attorney Docket No. BYY-103-B	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 29, 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, February 5, 2010, which set a shortened statutory period for reply of three (3) months. A three month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on August 6, 2010. A Notice of Abandonment was mailed on August 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 RCE (Request for Continued Examination, with the required fee of $405, (2) the petition fee of $810, and (3) a proper statement of unintentional delay. Accordingly, the RCE is accepted as being unintentionally delayed.

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

This application is being referred to Technology Center AU 1639 for appropriate action by the Examiner in the normal course of business on the reply received June 29, 2011.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

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

MAILED
JAN 04 2012
OFFICE OF PETITIONS

In re Application of	:	
Lanny R. Smith	:	
Application No. 11/320,257	:	NOTICE
Filed: December 27, 2005	:	
Attorney Docket No. 76213.0005	:	

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

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	11/320,280	Confirmation Number	8964	Filing Date	2005-12-28
Attorney Docket Number (optional)	590-1003-200-US	Art Unit	1612	Examiner	KISHORE, GOLLAMUDI
First Named Inventor	Peter Ladislaus Dorogi				
Title of Invention	Skin Treatment Compositions Containing Copper-Pigment Complexes				

Attention: Office of Petitions
An application may be made special for advancement of examination upon filing of a petition showing that the applicant is 65 years of age, or more. No fee is required with such a petition. See 37 CFR 1.102(c)(1) and MPEP 708.02 (IV).

APPLICANT HEREBY PETITIONS TO MAKE SPECIAL FOR ADVANCEMENT OF EXAMINATION IN THIS APPLICATION UNDER 37 CFR 1.102(c)(1) and MPEP 708.02 (IV) ON THE BASIS OF THE APPLICANT'S AGE.

A grantable petition requires one of the following items:
(1) Statement by one named inventor in the application that he/she is 65 years of age, or more; or
(2) Certification by a registered attorney/agent having evidence such as a birth certificate, passport, driver's license, etc. showing one named inventor in the application is 65 years of age, or more.

Name of Inventor who is 65 years of age, or older

Given Name	Middle Name	Family Name	Suffix
John	Patrick	McCook	

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

Select (1) or (2) :

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

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

Signature	/LCP/	Date (YYYY-MM-DD)	2011-12-16
Name	Louis C Paul	Registration Number	53442

PTO/SB/130 (07-09)
Approved for use through 07/31/2012. OMB 0651- 0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
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Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

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In re Application of
Peter Ladislaus Dorogi

Application No. 11320280

Filed: December 28,2005

Attorney Docket No. 590-1005

:DECISION ON PETITION TO MAKE SPECIAL
:UNDER 37 CFR 1.102(c)(1)

This is a decision on the electronic petition under 37 CFR 1.102 (c)(1), filed 16-DEC-2011 to make the above-identified application special based on applicant's age as set forth in MPEP § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1), MPEP § 708.02, Section IV: Applicant's Age must include a statement by applicant or a registered practitioner having evidence that applicant is at least 65 years of age. No fee is required.

Accordingly, the above-identified application has been accorded "special" status and will be taken up for action by the examiner upon the completion of all pre-examination processing.

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

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

WONG, CABELLO, LUTSCH, RUTHERFORD & BRUCCULERI,
L.L.P.
20333 SH 249 6th Floor
HOUSTON TX 77070

MAILED
MAY 26 2011
OFFICE OF PETITIONS

In re Application of	:	
Peter Chu	:	
Application No. 11/320,323	:	DECISION ON PETITION
Filed: December 27, 2005	:	
Attorney Docket No.: 199-0443US	:	

This is a decision on the petition, filed April 18, 2011, requesting withdrawal of the holding of abandonment in the above-identified application under 37 CFR 1.181.

The application was held abandoned for failure to reply to the final Office action mailed September 15, 2010. A Notice of Abandonment was mailed on April 13, 2011. In response on April 18, 2011, the present petition was filed, wherein petitioner argues that the abandonment should be withdrawn. Petitioner explains that in view of the Advisory Action mailed December 9, 2010, no new reply was believed necessary.

A review of the Advisory Action mailed December 9, 2010, confirms that petitioner is correct, inasmuch as the Examiner stated:

"The applicant's request for reconsideration is persuasive. The examiner will do an updated search and send out another action in the near future. The finality of the last office action is withdrawn."

In view of the above, the Office concedes that there was no outstanding Office action requiring a reply for applicant. Accordingly, the petition is **GRANTED**.

The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

This application is being referred to the Technology Center Art Unit 2614 for appropriate action by the Examiner in the normal course of business.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. All other inquiries regarding this application should be directed to the Technology Center.

/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
www.uspto.gov

Patent No. : 7945308 B2
Application No.: 11/320361
Inventor(s) : Tropp et al.
Issued : May 17, 2011
Attorney Docket No.: GE.0072

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

EFS-Web (Web-based Electronic Filing System) accessible through the Electronic Business Center (EBC)

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: 04/16/2012

Address: Michael G. Smith, Esq
P.O. Box 341179
Austin, Texas 78734

/ts

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

MAILED

NOV 08 2010

OFFICE OF PETITIONS

In re Application of	:	
Zachary L. Braunstein	:	DECISION ON PETITION
Application No. 11/320,420	:	TO WITHDRAW
Filed: December 28, 2005	:	FROM RECORD
Attorney Docket No. 39804-501001US	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 18, 2010.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office 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 Pedro F Suarez, on behalf of the practitioners of record associated with Customer No 64046.

Customer No 64046 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.

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

cc: ZACHARY L. BRAUNSTEIN
1458 EVERGREEN LANE
SAN MARCOS, CA 92069

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
11/320,420	12/28/2005	Zachary L. Braunstein	39804-501001US

CONFIRMATION NO. 9623

POWER OF ATTORNEY NOTICE

64046
MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO, P.C
ONE FINANCIAL CENTER
BOSTON, MA 02111

OC000000044383351

Date Mailed: 11/05/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/18/2010.

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

/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
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Adam Siri
81-18 Haddon Street
Jamaica Estates NY 11432

MAILED
JAN 31 2011
OFFICE OF PETITIONS

In re Application of :
Adam Siri :
Application No. 11/320,458 : ON PETITION
Filed: 12/28/2005 :
Docket No. cwcescbmoscwfdc :

This is in response to the petition under 37 CFR 1.181, filed November 4, 2010, to withdraw the holding of abandonment.

On March 15, 2010, the Office mailed a non-final Office action, which set a shortened statutory period of three months to reply. No extensions of time were obtained under 37 CFR 1.136(a). In the apparent absence of a timely and properly reply, the application was held abandoned on June 16, 2010. The Office mailed a Notice of Abandonment on September 30, 2010.

In response, petitioner filed the present petition requesting that the Office withdraw the holding of abandonment. Petitioner asserted that a reply to the non-final Office action was filed on June 15, 2010. Petitioner submitted a copy of the reply with the present petition.

Initially, the Office notes that the present petition contains the typed name of the sole inventor, Adam Siri; however, it lacks the inventor'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).

As a petition under 37 CFR 1.181 requires a person's signature, the Office cannot accept the petition because petitioner failed to comply with the signature requirement. Consequently, the present petition is dismissed and will not be addressed on the merits until petitioner files a petition signed in compliance with 37 CFR 1.4(d).

Although the Office will not specifically address the merits of the petitions, the Office does remind petitioner that an applicant must file a complete, proper and timely response that meets all of the

requirements set forth in any Office communication to avoid abandonment of an application. The Office has no record of receiving any correspondence from petitioner on June 15, 2010. However, if the reply was indeed received in the USPTO on June 15, 2010, the reply is improper as it also lacks a signature. Specifically, the Office notes that amendments and other papers filed in the application must be signed by:

> (1) A patent practitioner of record appointed in compliance with § 1.32(b);
> (2) A patent practitioner not of record who acts in a representative capacity under the provisions of § 1.34;
> (3) An assignee as provided for under § 3.71(b) of this chapter; or
> (4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

37 CFR 1.33(b).

In this instance, the reply to the non-final Office action was not signed by the applicant in accordance with 37 CFR 1.33(b). The Office reminds petitioner that if an applicant does not file a complete and proper reply, which addresses all of the requirements of outstanding Office action (or Notice), within the set time period for response, the application will become abandoned by operation of statute.

As it appears that the present application is abandoned, petitioner may wish 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 to withdraw the holding of abandonment.

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

> (1) The reply required to the outstanding Office action;
>
> (2) The petition fee as set forth in 37 CFR 1.17(m) (currently $810.00 for a small entity); 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 was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The appropriate form for filing a petition to revive an unintentionally abandoned application accompanies this communication.

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

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

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

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

Correspondence may also be submitted via the USPTO electronic filing system.

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

Enclosure: Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b) – Form PTO/SB/64

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Date Mailed : August 9, 2011
Patent Issued : 7,832,077 B2
Serial No. : 11/320511
Inventor(s) : November 16, 2011
Title : METHOD OF MANUFACTURING A COILED TUBING SYSTEM

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.

Regarding the "Precision HD Pumps" website listing on the patent , the correction from "HD' to –DH—for the "barrels" webpage is approved for entry. However, the listing of the other webpages pertaining to the "plungers" and the "ballssea" will NOT be entered, since those two listings were not included on any of applicant's IDS documents, and there is no evidence that the examiner considered those documents. The typo correcting the foreign document WO 2003089753 has been approved for entry.

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

A certificate of correction will issue for the remaining errors noted in your request.

Magdalene Talley
For Mary F. Diggs, Supervisor
Decision and Certificate
Of Correction Branch
(571)272-0423

Courtenay B. Allen
Cox Smith Matthews Inc.
112 East Pecan Street, Ste. 1800
San Antonio, TX 78205-1521

MD/mt

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : June 20, 2011

TO SPE OF : ART UNIT 3726

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/320511 Patent No.: 7832077

CofC mailroom date: 6-10-11

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Note: _____

Magdalene Talley
Certificates of Correction Branch
571-272-0423

Thank You For Your Assistance

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

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

Comments: Regarding the "Precision HD Pumps" website listing on the patent, the correction from "HD" to --DH-- for the "barrels" webpage is approved for entry. However, the listing of the other webpages pertaining to the "plungers" and the "ballssea" will NOT be entered, since those two listings were not included on any of applicant's IDS documents, and there is no evidence that the examiner considered those documents. The typo correcting the foreign document WO 2003089753 has been approved for entry.

DAVID P. BRYANT
SUPERVISORY PATENT EXAMINER
3726

9/5/11

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

PTOL-306 (REV. 7/03)

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Date Mailed : September 9, 2011
Serial no. :11/320511
Patent no. : 7,832,077 B2
Patent Issued : November 16, 2011
Inventor(s) : Joe Crawford .
Title : METHOD OF MANUFACTURING A COILED TUBING SYSTEM

Re: Request for Certificate of Correction

Consideration has been given your request for reconsideration for the issuance of a certificate of correction.

The changes approved for entry are only those indicated in the previous "SPE Response" form PTOL-306. Those pertaining to the "plungers" and the "ballssea" will NOT be entered, for the reasons previously indicated. A request was filed on 8-19-11, but it is not convincing. 37 CFR1.98 outlines the requirements of a proper IDS. As noted in 1.98(a) (1), the IDS must include "A list of ... publications. submitted for consideration by the Office. "Regarding the "plungers" and "ballssea" documents, that requirement was not fulfilled by applicant in the IDS filed 6/7/07. The fact that the documents themselves were included in the file does not itself correct the IDS deficiency related to the "plungers" and "ballssea" documents. The submission of the relevant documents is a separate requirement of IDSes; see 37 CFR 1.98(2) (ii)..

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

Magdalene Talley
For Mary F. Diggs, Supervisor
Decision and Certificate
Of Correction Branch
(571)272-0423

Courtenay B. Allen
Cox Smith Matthews Inc.
112 East Pecan Street, Ste. 1800
San Antonio, TX 78205-1521

MD/mt

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : August 22, 2011

TO SPE OF : ART UNIT 3726

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/320511 patent no: 7832077

CofC mailroom date: 8-22-11

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

FOR IFW FILES:

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

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Note: _____

_____

Magdalene Talley
Certificates of Correction Branch
571-272-0423 _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☐ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: The changes approved for entry are only those indicated in the previous "SPE Response" form PTOL-306. Those pertaining to the "plungers" and the "ballssea" will NOT be entered, for the reasons previously indicated. Applicant filed a request for reconsideration on 8/19/11, but it is not convincing. 37 CFR 1.98 outlines the requirements of a proper IDS. As noted in 1.98(a)(1), the IDS must include "A list of...publications...submitted for consideration by the Office." Regarding the "plungers" and "ballssea" documents, that requirement was not fulfilled by applicant in the IDS filed 6/7/07. The fact that the documents themselves were included in the file does not itself correct the IDS deficiency related to the "plungers" and "ballssea" documents. The submission of the relevant documents is a separate requirement of IDSes; see 37 CFR 1.98(2)(ii).

/David P. Bryant/ 3726

SPE Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : August 22, 2011

TO SPE OF : ART UNIT 3726

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/320511 patent no: 7832077

CofC mailroom date: 8-22-11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Note: _____

_____

Magdalene Talley
Certificates of Correction Branch
571-272-0423 _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☐ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☒ **Denied** — State the reasons for denial below.

Comments: The changes approved for entry are only those indicated in the previous "SPE Response" form PTOL-306. Those pertaining to the "plungers" and the "ballssea" will NOT be entered, for the reasons previously indicated. Applicant filed a request for reconsideration on 8/19/11, but it is not convincing. 37 CFR 1.98 outlines the requirements of a proper IDS. As noted in 1.98(a)(1), the IDS must include "A list of...publications...submitted for consideration by the Office." Regarding the "plungers" and "ballssea" documents, that requirement was not fulfilled by applicant in the IDS filed 6/7/07. The fact that the documents themselves were included in the file does not itself correct the IDS deficiency related to the "plungers" and "ballssea" documents. The submission of the relevant documents is a separate requirement of IDSes; see 37 CFR 1.98(2)(ii).

/David P. Bryant/ 3726

SPE Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 6,669,927 B2
DATED : December 30, 2003
INVENTOR(S) : Trom, Matthew C.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Title page,
Item [56], **References Cited**, FOREIGN PATENT DOCUMENTS, delete "96/02276" and insert in place thereof -- 97/02276 --

Drawings,
FIG. 1 and 2, insert the attached:

Column 6,
Line 35, delete "tribydroxybenzoic" and insert in place thereof -- trihydroxybenzoic --.

Column 8,
Line 54, delete "4 Contains" and insert in place thereof -- Comparative 4 Contains --.
Line 56, delete "5 Contains" and insert in place thereof -- Comparative 5 Contains --.
Line 58, delete "6 Contains" and insert in place thereof -- Comparative 6 Contains --.
Line 60, delete "7 Contains" and insert in place thereof -- Comparative 7 Contains --.

Column 12,
Line 58, delete "using a dental composition" and insert in place thereof -- using an aqueous dental composition --.
Line 60, delete "modifier and an adjuvant," and insert in place thereof -- modifier, water, and an adjuvant --.

Column 14,
Line 11, delete "using a dental composition" and insert in place thereof -- using an aqueous dental composition --.
Line 13, delete "modifier and an adjuvant" and insert in place thereof -- modifier, water, and an adjuvant --.

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

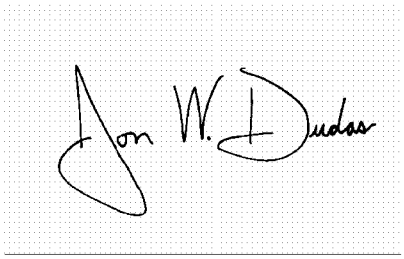
PATENT NO. : 6,669,927 B2
DATED : December 30, 2003
INVENTOR(S) : Trom, Matthew C.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Column 14 (cont'd),
Line 17, delete "temperarure" and insert in place thereof -- temperature --.
Line 32, delete "claim 5" and insert in place thereof -- claim 1 --.
Line 32, delete "solvent" and insert in place thereof -- aqueous composition --.

Signed and Sealed this

Seventh Day of September, 2004



JON W. DUDAS
Director of the United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MCKENNA LONG & ALDRIDGE LLP
Song K. Jung
1900 K Street, N.W.
Washington DC 20006

MAILED
NOV 19 2010
OFFICE OF PETITIONS

In re Patent No. 7,704,829	:	
Issued: April 27, 2010	:	
Application No. 11/320,906	:	DECISION ON PETITION
Filed: December 30, 2005	:	
Attorney Docket No. 10216.134.00-US	:	

This is a decision on the petition, filed, September 15, 2010, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee's name and residence on the Letters Patent by way of a certificate of correction in the above-identified patent.

The request is GRANTED.

Petitioner states that the correct assignee's name is "Dongbu Semiconductor Inc., Seoul (KR)" and that the incorrect assignee's name was included on the Fee(s) Transmittal form PTOL-85(b) at the time of payment of the issue fee.

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 "Dongbu Semiconductor Inc., Seoul (KR)" is the assignee of record. Accordingly, as the request complies with the provisions of 37 CFR 3.81(b), it would be appropriate to issue a certificate of correction.

---

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3205. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

This matter is being referred to the Certificates of Correction Branch for processing of a certificate of correction after issuance of this application into a patent.

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED

MAR 10 2011

OFFICE OF PETITIONS

FOLEY & LARDNER LLP
777 EAST WISCONSIN AVENUE
MILWAUKEE, WI 53202-5306

In re Patent No.: 7,482,885	:	
Issued: January 27, 2009	:	
Application No. 11/321,110	:	NOTICE
Filed: December 29, 2005	:	
Atty Docket No.: 062222-0102	:	

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) 272-3204.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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CHALKER FLORES, LLP
2711 LBJ FRWY
Suite 1036
DALLAS TX 75234

MAILED

OCT 25 2010

OFFICE OF PETITIONS

In re Application of	:	
Douglas PECKOVER	:	
Application No. 11/321,155	:	DECISION ON PETITION
Filed: December 28, 2005	:	
Attorney Docket No. DTLB:1003	:	

This is a decision on the petition, filed June 10, 2010 and supplemental petition filed June 17, 2010, which is being treated as a petition under 37 CFR 1.8(b), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, August 05, 2009, which set a shortened statutory period for reply of three (3) months. A three (3) month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on February 06, 2010.

Petitioner states that a timely reply was mailed via certificate of mailing on February 05, 2010, which included a three month extension of times. Petitioner has submitted copies of an envelope with first class postage and the previously mailed correspondence, which bears a certificate of mailing dated February 05, 2010, which would have rendered the reply timely if received.

In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

Telephone inquiries concerning this decision should be directed to the Michelle R. Eason at 571-272-4231.

This application is being referred to Technology Center AU 2168 for appropriate action in the normal course of business on the reply received with petition.

Thurman K. Page
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE
BOARD OF PATENT APPEALS AND INTERFERENCES

Ex parte GREGG SIEGEL and PHYLLIS SIEGEL

Application 11/321,224
Technology Center 1600

DECISION ON RENEWED PETITION

This is a decision on the "Petition for Withholding the Holding of Abandonment Under 37 CFR 41.3 or Alternatively Under 37 CFR 1.137(a) as Unavoidable Delay," filed August 13, 2010 ("Renewed Petition"). The Renewed Petition seeks revival of the application and reinstatement of the appeal under 37 C.F.R. § 41.3 (withdraw holding of abandonment) or, alternatively, under 37 C.F.R. § 1.137(a) (unavoidable delay).

FINDINGS

1. The background facts relevant to this matter are set forth in the Decision on Petition by the Chief Administrative Patent Judge entered July 16, 2010. ("First Decision"). In the First Decision, the Chief Judge denied Appellants' original Petition to revive the application and reinstate the appeal without prejudice to Appellants filing a renewed petition under 37 C.F.R. § 1.137(a) (unavoidable delay) or § 1.137(b) (unintentional abandonment).

2. In the Renewed Petition and an accompanying Declaration, Appellants' attorney describes difficulties he experienced in communicating with the Examiner in this application and his supervisor. Renewed Petition, pp. 1-2; Declaration, p. 1.

3. The contents of the file of this application as contained in Public PAIR, include the entry "Miscellaneous Action with SSP," dated September 10, 2009. This Action is the Notification of Non-Compliant Appeal Brief referred to in the First Decision. Appellants failure to timely respond to this Action resulted in abandonment of the application.

DISCUSSION

In the Renewed Petition and Declaration, Appellants do not describe any effort that was made by or on behalf of Appellants to check the status of the application other than unsuccessful attempts to reach the Examiner and his supervisor by telephone. As described above, the contents of the application were available on Public PAIR. The fact that Appellants' Attorney did not receive the Notification of Non-Compliant Appeal Brief as mailed and had difficulty in reaching the Examiner and his supervisor by telephone, do not excuse the failure to check the status of the application/appeal by consulting Public PAIR. This is particularly true where, as here, Appellants were expecting to receive a communication from the Office – an examiner's answer. Thus, Appellants have not made a "showing" of unavoidability as required by Rules 41.3 and 1.137(a).

Appellants also argue that *Witty v. Dukakis*, 3 F.3d 517 (1st Cir. 1993), cited in the First Decision, is inapplicable. Renewed Petiton, p. 1. In respect to the Court's holding in *Witty* that "parties to an ongoing case have an independent obligation to monitor all developments in the case . . . ." (*Id.* at

520), this holding is directly applicable here. As noted in the First Decision, this holding was quoted with approval by the Federal Circuit in *Barbacid v. Brown*, 223 Fed. Appx. 972, 973 (Fed. Cir. 2007), a case involving actions taken by the USPTO.

DECISION

In view of the foregoing, the Renewed Petition is DENIED. Appellants are granted a further one month period in which to file a renewed petition under 37 C.F.R. § 1.137(b) seeking revival of an unintentionally abandoned application.

James T. Moore
Acting Chief Administrative Patent Judge

John Lezdey & Associates
2401 West Bay Drive, Suite 118
Largo, FL 33770

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CHICAGO IL 60606

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AUG 19 2010
OFFICE OF PETITIONS

In re Patent No. 7,711,631	: DECISION ON REQUEST
Singer et al.	: FOR
Issue Date: 05/04/2010	: RECONSIDERATION OF
Application No. 11/321,228	: PATENT TERM ADJUSTMENT
Filing or 371(c) Date: 12/29/2005	:
Atty Docket No. 05-1126	:
	:

This is a decision on the petition filed on May 13, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by three hundred thirty-one (331) days. For the reasons stated below, the petition is treated as a petition requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one hundred twenty-nine (129) days

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one hundred twenty-nine (129) days is **GRANTED to the extent indicated herein**

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period begins on December 30, 2008, and ends on August 3, 2009, the day before the RCE was filed, and is 217 days. See 35 U.S.C. 154(b)(1)(B)(i). Any time consumed by appellate review, however, is not included in the calculation of 37 CFR 1.702(b). See 35 U.S.C. 154(b)(1)(B)(ii). On October 22, 2008, a notice of appeal was filed. On May 11, 2009, 202 days after the date the notice of appeal was filed, a non-final Office action was mailed. Accordingly, the excluded period for appeal is 202 days, and the "B" delay period is 15 (217 – 202) days.[1]

[1] The Office notes that where a request for continued examination ("RCE"), has been filed, the period of appeal is only reduced if such appeal period occurred prior to the filing of the RCE. If no RCE has been filed, the period of appeal is reduced if it occurs at anytime during the pendency of application.

The patent term adjustment at the time of issuance of the patent is 129 (234 days of Office delay + 15 days of over three years delay – 120 days of applicant delay) days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136. See 37 CFR 1.323(a)(4).

Petitioner is reminded that the decision mailed on March 29, 2010 stated that any request for reconsideration must include payment of the required fee under 37 CFR 1.18(e). Accordingly, a fee of $200.00 is due with the subject petition, and will be charged to counsel's deposit account.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by one hundred twenty-nine **(129)** 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 : 7,711,631 B2

DATED : **May 4, 2010** **DRAFT**

INVENTOR(S) : Singer 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 130 days.

Delete the phrase "by 130 days" and insert – by 129 days--

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AUG 03 2011
OFFICE OF PETITIONS

In re Patent No. 7,711,631	: DECISION ON REQUEST
Singer et al.	: FOR
Issue Date: 05/04/2010	: RECONSIDERATION OF
Application No. 11/321,228	: PATENT TERM ADJUSTMENT
Filing or 371(c) Date: 12/29/2005	: and
Atty Docket No. 05-1126	: DECISION ON PETITION
	:

This is a decision on the petition under 37 CFR 1.183, filed on September 16, 2010, which is being treated as a petition under 37 CFR 1.183 and 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 thirty-one (331) 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 129 days.

The petition under 37 CFR 1.183 is **DISMISSED**.

Patentees dispute the period of time excluded from B delay for appellate review. Patentees' argument has been considered, but not found persuasive. The period consumed by appellate review, whether successful or not, is excluded from the calculation of B delay. See 35 U.S.C. 154(b)(1)(B)(ii). An appeal to the Board of Patent Appeals and Interferences commences with the filing of a notice of appeal. See 35 U.S.C. 134(a). Generally, an appeal to the Board of Patent Appeals and Interferences ends with either 1) a Board decision, 2) the examiner reopening prosecution and issuing another Office action, or 3) the applicant filing a request to withdraw the appeal and reopen prosecution (*e.g.,* the filing of a request for continued examination). In this instance the period consumed by appellate review is 202 days, consisting of the period beginning on October 22, 2008, the date of filing of the notice of appeal and ending on May 11, 2009, the date a non-final Office action was mailed. Thus, B delay is 15 (217 – 202) 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.

Considered under 37 CFR 1.183, patentees' argument is also unconvincing. 37 CFR 1.183 provides that in an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Director or the Director's designee, *sua sponte*, or on petition of the interested party, subject to such other requirements as may be imposed.

Patentees have not shown that neither the filing of the notice of appeal, nor the mailing of a non-final Office action on May 11, 2009, after the filing of the notice of appeal, is an extraordinary situation. Rather, the showing of record is that in filing the notice of appeal on October 22, 2008, petitioner assumed the risk that the "B" delay period of patent term adjustment would be reduced pursuant to § 1.703(b)(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 $400.00 fee set forth in 37 CFR 1.17(f), and the $200.00 fee set forth at § 1.18(e). No additional fees are required.

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 Petition

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In re Patent No. 7,711,631	: DECISION ON REQUEST
Singer et al.	: FOR
Issue Date: 05/04/2010	: RECONSIDERATION OF
Application No. 11/321,228	: PATENT TERM ADJUSTMENT
Filing or 371(c) Date: 12/29/2005	: and
Atty Docket No. 05-1126	: DECISION ON PETITION
	:

This is a decision on the petition under 37 CFR 1.183, filed on September 16, 2010, which is being treated as a petition under 37 CFR 1.183 and 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 thirty-one (331) 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 129 days.

Patentees dispute the period of time excluded from B delay for appellate review. Patentees' argument has been considered, but not found persuasive. The period consumed by appellate review, whether successful or not, is excluded from the calculation of B delay. See 35 U.S.C. 154(b)(1)(B)(ii). An appeal to the Board of Patent Appeals and Interferences commences with the filing of a notice of appeal. See 35 U.S.C. 134(a). Generally, an appeal to the Board of Patent Appeals and Interferences ends with either 1) a Board decision, 2) the examiner reopening prosecution and issuing another Office action, or 3) the applicant filing a request to withdraw the appeal and reopen prosecution (*e.g.*, the filing of a request for continued examination). In this instance the period consumed by appellate review is 202 days, consisting of the period beginning on October 22, 2008, the date of filing of the notice of appeal and ending on May 11, 2009, the date a non-final Office action was mailed. Thus, B delay is 15 (217 – 202) 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.

Considered under 37 CFR 1.183, patentees argument is also unconvincing. 37 CFR 1.183 provides that in an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Director or the Director's designee, *sua sponte*, or on petition of the interested party, subject to such other requirements as may be imposed.

Petitioners have not shown that neither the filing of the notice of appeal, nor the mailing of a non-final Office action on May 11, 2009, after the filing of the notice of appeal, is an extraordinary situation. Rather, the showing of record is that in filing the notice of appeal on October 22, 2008, petitioner assumed the risk that the "B" delay period of patent term adjustment would be reduced pursuant to § 1.703(b)(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 $400.00 fee set forth in 37 CFR 1.17(f), and the $200.00 fee set forth at § 1.18(e). No additional fees are required.

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 Petition

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/321,294	12/28/2005	Willard S. MacDonald	WM05001USU	9635

34408 7590 09/23/2010
THE ECLIPSE GROUP LLP
10605 BALBOA BLVD., SUITE 300
GRANADA HILLS, CA 91344

EXAMINER
COSIMANO, EDWARD R

ART UNIT	PAPER NUMBER
2863	

MAIL DATE	DELIVERY MODE
09/23/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, D.C. 20231
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Paper Number: 20100921

Jeffery C. Wilk
The Eclipse Group LLP
10605 Balboa Blvd., Suite 300
Granda Hills, CA 91344

SEP 20 2010

In re Application of:	:	
Willard S. MacDonald	:	DECISION ON PETITION
Serial No.: 11/321,294	:	FOR USE OF COLOR DRAWINGS UNDER 37
Filed: 12/29/2005	:	C.F.R 1.84(a)(2)
Attorney Docket No.: **WM05001USU**	:	

This is a decision in response to the petition under 37 C.F.R. 1.84(a)(2) filed 5/6/2008. The petition fee has been paid.

The petition is **GRANTED**.

The Petition sets forth an explanation regarding why the color drawings are necessary, the required fee, the required paragraph is provided in the specification and includes three sets of color drawings.

Accordingly, the color drawings are accepted as formal drawings in the above-referenced application.

Drew A. Dunn, Supervisory Patent Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

PTO/SB/131 (01-10)
Approved for use through 02/28/2011. OMB 0651-0020
U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE
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REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH**

Attorney Docket Number: P22825/1020P22825	Patent Number: 7,667,447
Filing Date (or 371(b) or (f) Date): 12-28-2005	Issue Date: 02-23-2010
First Named Inventor: Lilly Huang	
Title: LOAD ADAPTIVE POWER DELIVERY	

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 C. Fagan/Reg. No. 37,542	Date July 9, 2010
Name (Print/Typed) Matthew C. Fagan	Registration Number 37,542

***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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KACVINSKY DAISAK PLLC
C/O CPA Global
P.O. BOX 52050
MINNEAPOLIS, MN 55402

Mail Date: 09/10/2010

Applicant	: Lilly Huang	: DECISION ON REQUEST FOR
Patent Number	: 7667447	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/321,329	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/28/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **504** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

KOPPEL, PATRICK, HEYBL & DAWSON
2815 TOWNSGATE ROAD
SUITE 215
WESTLAKE VILLAGE CA 91361-5827

MAILED

DEC 10 2010

OFFICE OF PETITIONS

In re Application of	:	
Lugo, Octavio	:	DECISION ON PETITION
Application No. 11/321,353	:	TO WITHDRAW
Filed: December 28, 2005	:	FROM RECORD
Attorney Docket No. 027-27-001	:	

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 **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 Jaye G. Heybl on behalf of all attorneys/agents of record who are associated with Customer Number 23935. All attorneys/agents associated with Customer Number 23935 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record will remain the same, as requested. As such, all future correspondence will continue to be directed to the address indicated above.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-3206. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Liana Walsh
Petitions Examiner
Office of Petitions

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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STATTLER-SUH PC / NETLOGIC
60 SOUTH MARKET STREET
SUITE 480
SAN JOSE CA 95113

MAILED
NOV 16 2010
OFFICE OF PETITIONS

In re Application of	:	
Stefanos Sidiropoulos et al.	:	
Application No. 11/321,412	:	NOTICE
Filed: December 29, 2005	:	
Attorney Docket No. **AELU.P0016**	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-2783.

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450

Mr. Richard Hess
16507 NE 4th Street
Bellevue, Washington 68008-4259

MAILED
FEB 07 2011
OFFICE OF PETITIONS

In re Application of	:	
Richard HESS et al.	:	ON PETITION
Application No. 11/321,572	:	
Filed: 28 December 2005	:	
Atty. Docket No.: 2723-001-03	:	

This is a decision on the petition, filed 30 December 2010, requesting withdrawal of the holding of abandonment under the provisions of 37 CFR 1.8(b).

The petition is **GRANTED**.

Petitioner asserts that the abandonment be withdrawn as petitioner timely filed a response to the Notice of Non-compliant Amendment mailed 15 April 2010. Applicant has: (1) informed 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) supplied an additional copy of the previously mailed or transmitted correspondence and certificate; and (3) included a statement which attests on a personal knowledge basis or the satisfaction of the director to the previously timely mailing or transmission along with a copy of the sending units report confirming transmission. Accordingly, the provisions of 37 CFR 1.8(b) have been met.

General inquiries relating to this decision should be directed to Robert DeWitty, Petitions Examiner, Office of Petitions (571-272-6051).

The application file will be referred to Technology Center Art Unit 2618 for further action on the filed Response.

David Bucci
Petitions Examiner
Office of Petitions

PTO/SB/131 (01-10)
Approved for use through 02/28/2011. OMB 0651-0020
U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH**

Attorney Docket Number: ITL.1732P1US (P22552)	Patent Number: 7,668,387
Filing Date (or 371(b) or (f) Date): 12-29-2005	Issue Date: 02-23-2010
First Named Inventor: Walid S. Ali	
Title: SELECTIVE LOCAL TRANSIENT IMPROVEMENT AND PEAKING FOR VIDEO SHARPNESS ENHANCEMENT	

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 /Molly A McCall/	Date July 8, 2010
Name (Print/Typed) Molly A McCall	Registration Number 46,126

***Note**: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required in accordance with 37 CFR 1.33 and 11.18. Please see 37 CFR 1.4(d) for the form of the signature. If necessary, submit multiple forms for more than one signature, see below**.*

☐ *Total of _____ forms are submitted.

The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

PTO/SB/131 (01-10)
Approved for use through 02/28/2011. OMB 0651-0020
U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

Instruction Sheet for: REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH**

(Not to be Submitted to the USPTO)

This form is only for requesting a recalculation of PTA for patents issued before March 2, 2010, if the sole basis for requesting the recalculation is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A).

This form must be filed within 180 days of the day the patent was granted, with the following exception:

> Patentees who received a decision from the USPTO under the USPTO's pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A) may file a request for reconsideration of that decision if such a request for reconsideration is filed within **two months** of the date of the decision (37 CFR 1.181(f)). If the patentee's sole basis for requesting reconsideration of the decision is the USPTO's pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A), the request for reconsideration need only state that reconsideration is being requested in view of Wyeth (this form may be used for this purpose if it is filed within **two months** of the date of the decision from the USPTO).

Do not use this form if the application has been allowed, but not yet issued as a patent.

1. **For patents issued before March 2, 2010:** A request for reconsideration under 37 CFR 1.705(d) and the fee set forth in 37 CFR 1.18(e) are not required, provided that the patentee's sole basis for requesting recalculation of the PTA in the patent is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A) and this form is filed within 180 days of the day the patent was granted.

2. **For patents issued on or after March 2, 2010 (do not use this form):** Patentees seeking a revised PTA in a patent issued on or after March 2, 2010, must file a request for reconsideration under 37 CFR 1.705(d) that complies with the requirements of 37 CFR 1.705(b)(1) and (b)(2) within two months of the day the patent issued.

For more information, see "Notice Concerning Calculation of the Patent Term Adjustment With Respect to the Overlapping Delay Provision of 35 U.S.C. 154(b)(2)(A)" available on the USPTO Web site at http://www.uspto.gov/patents/law/notices/2010.jsp.

**Wyeth v. Kappos*, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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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www.uspto.gov

TROP, PRUNER & HU, P.C.
1616 S. VOSS RD., SUITE 750
HOUSTON, TX 77057-2631

Mail Date: 08/26/2010

Applicant	: Walid S. Ali	: DECISION ON REQUEST FOR
Patent Number	: 7668387	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/321,690	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/29/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **614** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DELPHINE JAMES
2656 SOUTH LOOP WEST
SUITE 170
HOUSTON, TX 77054

MAILED

MAY 05 2011

OFFICE OF PETITIONS

In re Application of :
Sheila Elaine Johnson :
Application No. 11/321,743 : ON PETITION
Filed: December 29, 2005 :
Attorney Docket No. dmj200601005 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 5, 2011, to revive the above-identified application.

The petition is **DISMISSED**.

The application became abandoned for failure to reply in a timely manner to the Notice of Non-Compliant Amendment (37 CFR 1.121), mailed March 10, 2010 , which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). A one (1) month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on May 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) (1).

The amendment as drafted is unacceptable and, therefore, is not considered a proper under 37 CFR 1.121. In this regard, the amendment is physically part of the petition and, as such, does not comply with 37 CFR 1.121. Note that 37 CFR 1.121 states that amendments are made by filing a paper, in compliance with § 1.52, directing that specified amendments be made. The pertinent section of 37 CFR 1.52 states that the claim (in this case, the amendment to the claims), must commence on a separate physical sheet. 37 CFR 1.4(c) states that each distinct subject must be contained in a separate paper since different matters may be considered by different branches of the United States Patent and Trademark Office.

Further an unsigned amendment (or other paper) or one not properly signed by a person having authority to prosecute the application is not entered. This applies, for instance, where the amendment (or other paper) is signed by only one of two applicants and the one signing has not been given a power of attorney by the other applicant.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DELPHINE JAMES
2656 SOUTH LOOP WEST
SUITE 170
HOUSTON, TX 77054

MAILED
AUG 02 2011
OFFICE OF PETITIONS

In re Application of	:	
Shelia Elaine Johnson	:	
Application No. 11/321,743	:	DECISION ON PETITION
Filed: December 29, 2005	:	
Attorney Docket No. dmj200601005	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed July 5, 2011, 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. A courtesy copy of this decision is being mailed to petitioner. Nevertheless, all future correspondence regarding this application file will be directed solely to the address of record until otherwise instructed.

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must so notify the Office.

The application became abandoned for failure to reply in a timely manner to the Notice of Non-Compliant amendment (37 CFR 1.121, mailed March 10, 2010, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). A one (1) month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on May 11, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $810, 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 3781 for appropriate action by the Examiner in the normal course of business on the reply received July 5, 2011.

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

10-5-2010

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Patent No. : 7,709,336 B2
Serial No. : 11/321,767
Inventor(s) : Xian j. Ning, et. al.
Issued : May 4, 2010
Title :
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.

Respecting the alleged errors , cols 5 & 6 lines 14, 52, and 41-42 are printed in accordance with the record.

In view of the foregoing, your request is hereby denied.

Further correspondence concerning this matter should be filed and directed to Decisions and Certificates of Correction Branch. Any response must be filed within a four week period with the sum of $100.00

Eva James
For Mary Diggs
Decisions & Certificate
of Correction Branch

Qwest Communications International Inc.
1801 California St.#900
Denver CO 80202

UNITED STATES PATENT AND TRADEMARK OFFICE

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MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

MAILED
OCT 20 2010
OFFICE OF PETITIONS

In re Patent of Yang et al.	:	DECISION ON REQUEST
Patent No. 7,643,513	:	FOR RECONSIDERATION OF
Issue Date: January 5, 2010	:	REQUEST FOR RECALCULATION
Application No. 11/321,775	:	OF PATENT TERM ADJUSTMENT
Filed: December 29, 2005	:	IN VIEW OF WYETH AND NOTICE OF
Docket No. 17124US02	:	INTENT TO ISSUE CERTIFICATE OF
	:	CORRECTION

This is a decision on the petition filed on July 29, 2010, which is being treated as a petition requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand forty-two (1042) days.

The petition is **dismissed.**

Patentees argue that the Office miscalculated the period of delay pursuant to 37 CFR 1.704(b) associated with the filing of the issue fee on November 23, 2009.

37 CFR 1.705(d), provides in pertinent part that:

> If there is a revision to the patent term adjustment indicated in the notice of allowance, the patent will indicate the revised patent term adjustment. If the patent indicates or should have indicated a revised patent term adjustment, any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued and must comply with the requirements of paragraphs (b)(1) and (b)(2) of this section.

If applicants did not agree with the Office's calculation with respect to the delay in filing the issue fee on November 23, 2009, the appropriate time to contest it would have been within two months of the date of issuance of the patent via a 37 CFR 1.705(d) petition. Patentees did not file a petition under 37

CFR 1.705(d). Instead, applicants filed a Request for Recalculation of Patent Term Adjustment in View of Wyeth on April 29, 2010, well after two months after the patent issued.

As noted on the form itself, a Request for Recalculation of Patent Term Adjustment in View of Wyeth may be filed if the sole basis for requesting the recalculation is the Office's pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A). It is not possible to raise any issue beyond the Three Year Delay calculation per 35 U.S.C. 154(b)(2)(A)on a request for reconsideration of a Request for Recalculation of Patent Term Adjustment in View of Wyeth.

In light thereof, the correct patent term adjustment remains 1040 days, which is the sum of 670 days of delay under 35 U.S.C. 154(b)(1)(A) and 372 days of B Delay, reduced by 2 days for Applicant delay.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted **by one thousand forty (1040)** days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,643,513 B2

DATED : **January 5, 2010** **DRAFT**

INVENTOR(S) : Yang 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 698 days

Delete the phrase "by 698 days" and insert – by 1040 days--

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

AUG 30 2010

OFFICE OF PETITIONS

Paper No.

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO IL 60610

In re Patent No. 7,605,892	:	DECISION ON REQUEST
Jang et al.	:	FOR
Issue Date: October 20, 2009	:	RECONSIDERATION OF
Application No. 11/321,838	:	PATENT TERM ADJUSTMENT
Filed: December 29, 2005	:	and
Atty Docket No. 12579-6154	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on May 18, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by five hundred and sixteen (516) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by five hundred and sixteen (516) days is **GRANTED**.

The $200.00 fee set forth in 37 CFR 1.18(e) will be charged to Deposit Account No. 23-1925 in due course, as authorized on the second page of this petition. No additional fees are required.

On December 22, 2009, Patentee submitted a petition under 37 CFR 1.705(d) along with the $200.00 fee set forth in 37 CFR 1.18(e). On February 3, 2010, Patentee filed a Request for Recalculation of Patent Term Adjustment in view of Wyeth. On March 17, 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 516 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 632 days.

The Office notes that the decision of April 21, 2010 was issued in error as it accorded Patentee 116 more days of patent term adjustment than was warranted. 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 **516 days**. The 116 additional days of adjustment will be removed.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **five hundred and sixteen (516) days**.

Telephone inquiries specific to this matter should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.

Anthony Knight
Director
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,605,892 B2

DATED : **October 20, 2009** **DRAFT**

INVENTOR(S) : Jang 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 632 days

Delete the phrase "by 400 days" and insert – by 516 days--

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	11321863
Filing Date	29-Dec-2005
First Named Inventor	Anthony Kihm
Art Unit	1632
Examiner Name	JOANNE HAMA
Attorney Docket Number	026038.0207D1US
Title	Cartilage and bone repair and regeneration using postpartum-derived cells

◉ Please withdraw me as attorney or agent for the above identified patent application and the practitioners of record associated with Customer Number: 32042

The reason(s) for this request are those described in 37 CFR:

10.40(b)(4)

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 address of the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71, associated with Customer Number: 27777

I am authorized to sign on behalf of myself and all withdrawing practitioners.

Signature	/Scott A. Chambers/
Name	Scott A. Chambers
Registration Number	37573

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 : February 14, 2012

In re Application of :

Anthony Kihm

Application No : 11321863

Filed : 29-Dec-2005

Attorney Docket No : 026038.0207D1US

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 14, 2012

The request is **APPROVED**

The request was signed by Scott A. Chambers (registration no. 37573) on behalf of all attorneys/agents associated with Customer Number 32042 . All attorneys/agents associated with Customer Number 32042 have been withdrawn.

Since there are no remaining attorneys of record, all future communications from the Office will be directed to the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71, with Customer number 27777 .

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	11321864
Filing Date	29-Dec-2005
First Named Inventor	Sridevi Dhanaraj
Art Unit	1632
Examiner Name	JOANNE HAMA
Attorney Docket Number	026038.0207D3US
Title	Cartilage and bone repair and regeneration using postpartum-derived cells

◉ Please withdraw me as attorney or agent for the above identified patent application and the practitioners of record associated with Customer Number: 32042

The reason(s) for this request are those described in 37 CFR:

10.40(b)(4)

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 address of the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71, associated with Customer Number: 27777

I am authorized to sign on behalf of myself and all withdrawing practitioners.

Signature	/Scott A. Chambers/
Name	Scott A. Chambers
Registration Number	37573

UNITED STATES 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 14, 2012

In re Application of :

Sridevi Dhanaraj

Application No : 11321864

Filed : 29-Dec-2005

Attorney Docket No : 026038.0207D3US

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 14, 2012

The request is **APPROVED**

The request was signed by Scott A. Chambers (registration no. 37573) on behalf of all attorneys/agents associated with Customer Number 32042 . All attorneys/agents associated with Customer Number 32042 have been withdrawn.

Since there are no remaining attorneys of record, all future communications from the Office will be directed to the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71, with Customer number 27777 .

As a reminder, requester is required to inform the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71 of the electronically processed petition.

Telephone inquiries concerning this decision should be directed to the Patent Electronic Business Center (EBC) at 866-217-9197.

Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 02-16-11

TO SPE OF : ART UNIT 2162

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/322026 Patent No.: 7774344

CofC mailroom date: 02-14-2011; 01-06-11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

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.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

SPE /John Breene/ **Art Unit** 2162

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Caven & Aghevli LLC
c/o CPA Global
P.O. BOX 52050
MINNEAPOLIS, MN 55402

MAILED
MAR 21 2012
OFFICE OF PETITIONS

In re Application of Venkataraman et al. :
Application No. 11/322,059 : Decision on Petition
Filing Date: December 28, 2005 :
Attorney Docket No. P22568 :

This is a decision on the petition under 37 CFR 1.137(b), filed February 2, 2012, to revive the above-identified application.

The petition is **granted**.

The Office mailed a Notice of Allowance on October 6, 2011, which set a three-month statutory period for reply. The Office mailed a Notice to File Corrected Application Papers on November 14, 2011, which set a period for reply of the longer of 1 month or the time remaining to respond to the Notice of Allowance. The Office did not receive a timely reply in response to the October 6, 2011 notice or the November 14, 2011 notice. As a result, the application became abandoned on January 7, 2012. The Office mailed a Notice of Abandonment on January 20, 2012.

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 the issue fee, publication, fee, and a declaration fully identifying the fourth inventor's name, (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 Office of Data Management will be informed of the instant decision and the application will be issued as a patent in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Decision Date : February 14, 2012

In re Application of :

Ian Harris

Application No : 11322372

Filed : 30-Dec-2005

Attorney Docket No : 026038.0204D1US

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 14, 2012

The request is **APPROVED**

The request was signed by Scott A. Chambers (registration no. 37573) on behalf of all attorneys/agents associated with Customer Number 32042 . All attorneys/agents associated with Customer Number 32042 have been withdrawn.

Since there are no remaining attorneys of record, all future communications from the Office will be directed to the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71, with Customer number 27777 .

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	11322372
Filing Date	30-Dec-2005
First Named Inventor	Ian Harris
Art Unit	1632
Examiner Name	JOANNE HAMA
Attorney Docket Number	026038.0204D1US
Title	Postpartum-derived cells for use in treatment of disease of the heart and circulatory system

◉ Please withdraw me as attorney or agent for the above identified patent application and the practitioners of record associated with Customer Number: 32042

The reason(s) for this request are those described in 37 CFR:

10.40(b)(4)

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 address of the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71, associated with Customer Number: 27777

I am authorized to sign on behalf of myself and all withdrawing practitioners.

Signature	/Scott A. Chambers/
Name	Scott A. Chambers
Registration Number	37573

Doc Code: PET.PTA.RCAL
Document Description: Request for Recalculation in view of Wyeth

PTO/SB/131 (01-10)
Approved for use through 02/28/2011. OMB 0651-0020
U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH**

Attorney Docket Number: 884.G40US1 (P22711)	Patent Number: 7,664,085
Filing Date (or 371(b) or (f) Date): 12-30-2005	Issue Date: 02-16-2010
First Named Inventor: Shai Waxman	
Title: WIRELESS COMMUNICATION DEVICE AND METHOD FOR COORDINATING COMMUNICATIONS AMONG WIRELESS LOCAL AREA NETWORKS (WLANS) AND BROADBAND WIRELESS ACCESS (BWA) NETWORKS	

PATENTEE HEREBY REQUESTS RECALCULATION OF THE PATENT TERM ADJUSTMENT (PTA) UNDER 35 USC 154(b) INDICATED ON THE ABOVE-IDENTIFIED PATENT. THE PATENTEE'S SOLE BASIS FOR REQUESTING THE RECALCULATION IS THE USPTO'S PRE-*WYETH* INTERPRETATION OF 35 U.S.C. 154(b)(2)(A).

Note: This form is only for requesting a recalculation of PTA for patents issued before March 2, 2010, if the sole basis for requesting the recalculation is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A). See Instruction Sheet on page 2 for more information.

Patentees are reminded that to preserve the right to review in the United States District Court for the District of Columbia of the USPTO's patent term adjustment determination, a patentee must ensure that he or she also takes the steps required under 35 U.S.C. 154(b)(3) and (b)(4) and 37 CFR 1.705 in a timely manner.

**Wyeth v. Kappos*, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).

Signature /Alan Pedersen-Giles/	Date 07-08-2010
Name (Print/Typed) Alan Pedersen-Giles	Registration Number 39,996

***Note**: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required in accordance with 37 CFR 1.33 and 11.18. Please see 37 CFR 1.4(d) for the form of the signature. If necessary, submit multiple forms for more than one signature, see below**.*

☑ *Total of 1 forms are submitted.

The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

PTO/SB/131 (01-10)
Approved for use through 02/28/2011. OMB 0651-0020
U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

Instruction Sheet for: REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH**

(Not to be Submitted to the USPTO)

This form is only for requesting a recalculation of PTA for patents issued before March 2, 2010, if the sole basis for requesting the recalculation is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A).

This form must be filed within 180 days of the day the patent was granted, with the following exception:

> Patentees who received a decision from the USPTO under the USPTO's pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A) may file a request for reconsideration of that decision if such a request for reconsideration is filed within **two months** of the date of the decision (37 CFR 1.181(f)). If the patentee's sole basis for requesting reconsideration of the decision is the USPTO's pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A), the request for reconsideration need only state that reconsideration is being requested in view of Wyeth (this form may be used for this purpose if it is filed within **two months** of the date of the decision from the USPTO).

Do not use this form if the application has been allowed, but not yet issued as a patent.

1. **For patents issued before March 2, 2010:** A request for reconsideration under 37 CFR 1.705(d) and the fee set forth in 37 CFR 1.18(e) are not required, provided that the patentee's sole basis for requesting recalculation of the PTA in the patent is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A) and this form is filed within 180 days of the day the patent was granted.

2. **For patents issued on or after March 2, 2010 (do not use this form):** Patentees seeking a revised PTA in a patent issued on or after March 2, 2010, must file a request for reconsideration under 37 CFR 1.705(d) that complies with the requirements of 37 CFR 1.705(b)(1) and (b)(2) within two months of the day the patent issued.

For more information, see "Notice Concerning Calculation of the Patent Term Adjustment With Respect to the Overlapping Delay Provision of 35 U.S.C. 154(b)(2)(A)" available on the USPTO Web site at http://www.uspto.gov/patents/law/notices/2010.jsp.

**Wyeth v. Kappos*, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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

SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

Mail Date: 08/16/2010

Applicant	: Shai Waxman	: DECISION ON REQUEST FOR
Patent Number	: 7664085	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/322,465	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/30/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1084** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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WHIRLPOOL PATENTS COMPANY - MD 0750
500 RENAISSANCE DRIVE - SUITE 102
ST. JOSEPH MI 49085

MAILED
APR 15 2011
OFFICE OF PETITIONS

In re Application of	:	
James William Kendall et al.	:	
Application No. 11/322,503	:	DECISION ON PETITION
Filed: December 30, 2005	:	
Attorney Docket No. US20050290	:	

This is a decision on the petition under 37 CFR 1.182, filed, May 11, 2007, to change the name of inventor "L. Achterberg Loarraine" to – Lorraine L. Achterberg --. The delay in rendering a decision on this petition is regretted.

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.

A petition under 37 CFR 1.182 requires a fee of $400, as set forth in 37 CFR 1.17(f) and has been charged to Deposit Account 50-2003, as authorized.

Any questions concerning this matter may be directed to the undersigned at (571) 272-4914. Any questions concerning the examination procedures or status of the application should be directed to the Technology Center.

This application is being referred to Technology Center AU 3637 for further processing.

Ramesh Krishnamurthy
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
11/322,503	12/30/2005	3637	1380	US20050290	25	2

CONFIRMATION NO. 1101

CORRECTED FILING RECEIPT

173
WHIRLPOOL PATENTS COMPANY - MD 0750
500 RENAISSANCE DRIVE - SUITE 102
ST. JOSEPH, MI 49085

OC000000047187931

Date Mailed: 04/15/2011

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

James William Kendall, Stevensville, MI;
Lorraine L. Achterberg, St. Joseph, MI;
Raymond L. Yao, St. Joseph, MI;
Vicki Lyn Wyatt, Watervliet, MI;

Power of Attorney:
Robert Rice--26574
Stephen Krefman--28631
Joel Van Winkle--37458
Clifton Green--41044
John Colligan--48240

Domestic Priority data as claimed by applicant

Foreign Applications (You may be eligible to benefit from the **Patent Prosecution Highway** program at the USPTO. Please see http://www.uspto.gov for more information.)

If Required, Foreign Filing License Granted: 02/03/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/322,503**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

RETRACTABLE HANGING ELEMENT

Preliminary Class

312

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.

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For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

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The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

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.

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NOT GRANTED

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INTEL/BSTZ
BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

Mail Date: 08/06/2010

Applicant	: Larry R. Tate	: DECISION ON REQUEST FOR
Patent Number	: 7660349	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/322,510	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/30/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1029** 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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KED & ASSOCIATES, LLP
P.O. BOX 221200
CHANTILLY VA 20153-1200

MAILED

AUG 23 2010

OFFICE OF PETITIONS

In re Patent No. 7,540,483 :
Issue Date: 2 June 2009 :
Application No. 11/322,644 : ON PETITION
Filed: 3 January, 2006 :
Attorney Docket No. IK-0122 :

This is decision on the petition filed on 19 January, 2010, treated as a request under 37 C.F.R. §3.81(b)[1] and §1.323 to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **DISMISSED** without prejudice.

Petitioner failed to include all of the required information in and submission(s) (including a copy of the certificate of correction sought) with the petition of 19 January, 2010.

The Office will not infer or seek to interpret Petitioner's wishes. Petitioner requests issuance of a certificate of correction, but does not state the substance (e.g., from whom to whom) and provide the form. The additional fees required are charged as authorized to Deposit Account 16-0607.

Petitioner notes at the bottom of the one- (1-) page petition that correspondence should be directed to a Customer Number. It is Petitioner's responsibility to ensure that the appropriate correspondence address has been incorporated by the Office, and such Notice must be provided in a separate paper and not buried in or tagged on to other papers. (*See*, generally: 37 C.F.R. §1.4, §1.33, MPEP §403, §601.)

The regulations at 37 C.F.R. §3.81(a) permits the patent to issue to the assignee, provided that, at the time the issue fee is paid, the name of an assignee is provided. The regulations at 37 C.F.R. §3.81 (b) permits the patent to issue in the name of an assignee if the assignment was submitted after payment of the issue fee but prior to issuance of a patent.

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

Patent No. 7,540,483
Application No. 11/322,644

The regulations at 37 C.F.R. §3.81(b), effective June 25, 2004, provide:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in .§1.20(a) and the processing fee set forth in §1.17(i) of this chapter.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[2]

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Accordingly, because the request does not comply with the provisions of 37 C.F.R. 3.81(b), it is not appropriate for a certificate of correction in the form and substance sought to be processed.

[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).

Patent No. 7,540,483
Application No. 11/322,644

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[3]) 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

[3] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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KED & ASSOCIATES, LLP
P.O. Box 8638
Reston VA 20195

MAILED
JAN 26 2011
OFFICE OF PETITIONS

In re Patent No. 7,540,483
Issue Date: June 2, 2009
Application No. 11/322,644
Filed: January 3, 2006
Attorney Docket No. IK-0122

DECISION ON PETITION

This is a decision on the renewed Request Under 37 C.F.R. §3.81(b), filed October 13, 2010, which is being treated as a Petition Under 37 CFR §3.81(b), to identify the correct assignee's name on the front page of the above-identified patent by way of a Certificate of Correction.

The petition under 37 CFR §3.81(b) is **GRANTED**.

The petition decision mailed August 23 2010, dismissed the 37 CFR §3.81(b) petition filed January 19, 2010, because petitioner failed to include all of the required information in and submission(s) (including a copy of the certificate of correction sought) with the petition. The renewed petition includes all of the required information in and submissions(s).

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. 7,540,483.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

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BRIAN R. WOODWORTH
275 N. FIELD DRIVE
DEPT. NLEG BLDG H-1
LAKE FOREST IL 60045-2579

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NOV 09 2010

OFFICE OF PETITIONS

In re Application of	:	
Marwan A. Fathallah, et al.	:	
Application No. 11/322,675	:	DECISION ON PETITION
Filed: December 30, 2005	:	
Attorney Docket No. 7184USO1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 30, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, December 26, 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 27, 2009. The Notice of Abandonment was mailed July 21, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Terri Johnson at (571) 272-2991.

This application is being referred to Technology Center AU 3763 for appropriate action by the Examiner in the normal course of business on the reply received.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

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DIW Jan-11

Paper No.

VALEO RADAR SYSTEMS, INC.
c/o DALY, CROWLEY, MOFFORD AND DURKEE, LLP
354A TURNPIKE STREET
SUITE 301-A
CANTON MA 02021-2714

MAILED
FEB 01 2011
OFFICE OF PETITIONS

In re Application of	:	
Lohmeier et al.	:	
Application Number: 11/322684	:	DECISION ON PETITION
Filing Date: 12/30/2005	:	
Attorney Docket Number: VRS-014PUS	:	

This is a decision on the petition, filed on November 15, 2010, under 37 CFR 1.137(f) which is treated as a petition to revive the above-identified nonprovisional application under the unintentional provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

Petitioners state that the present nonprovisional application is the subject of a foreign or international application filed on December 28, 2006. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(f) must be accompanied by:

(1) the reply which is met by the notification of such filing in a foreign country or under a multinational treaty;

(2) the petition fee as set forth in 37 CFR 1.17(m); and

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The present petition has been found to be in compliance with 37 CFR 1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded.

The application matured into Patent No. 7,336,219 on February 26, 2008. Therefore, no further action is required.

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

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12-R CABOT ROAD
WOBURN MA 01801

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SEP 07 2011

OFFICE OF PETITIONS

In re Application of
ZUBERI et al.
Application No. 11/322,777
Filed: 12/30/2005
Attorney Docket No. GEO2-013
Title: PROCESS FOR EXTRUDING A POROUS SUBSTRATE

DECISION ON PETITION

This is a decision on the petition filed August 24, 2011, which is being treated as a renewed petition under 37 CFR 1.48(a) to add named inventors and a petition under 37 CFR 1.47(a).

The petitions are GRANTED.

Applicants request that Dutta, Carty, Lee and Marshall be added as inventors for this application. Applicants assert that they presented Dutta with a complete copy of the application; however, he has refused to sign the declaration. Therefore, applicants seek relief under 37 CFR 1.48(a) and 37 CFR 1.47(a).

Pursuant to 37 CFR 1.48(a):

> *Nonprovisional application after oath/declaration filed.* If the inventive entity is set forth in error in an executed § 1.63 oath or declaration in a nonprovisional application, and such error arose without any deceptive intention on the part of the person named as an inventor in error or on the part of the person who through error was not named as an inventor, the inventorship of the nonprovisional application may be amended to name only the actual inventor or inventors. Amendment of the inventorship requires:
>
> (1) A request to correct the inventorship that sets forth the desired inventorship change;

(2) A statement from each person being added as an inventor and from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part;

(3) An oath or declaration by the actual inventor or inventors as required by § 1.63 or as permitted by §§ 1.42, 1.43 or § 1.47;

(4) The processing fee set forth in § 1.17(i); and

(5) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see § 3.73(b) of this chapter).

A review of the renewed petition reveals that applicants have met the requirements of 37 CFR. 1.48(a). Accordingly, the petition under 37 CFR 1.48(a) is granted.

As to the petition under 37 CFR 1.47(a), the Office notes that a grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee; and

(4) a statement of the last known address of the non-signing inventor.

A review of the petition reveals that applicants have met the requirements of 37 CFR 1.47(a). Specifically, applicants established that they provided a complete copy of the application to Dutta, the non-signing inventor. However, Dutta refused to join in the application. Thus, the petition under 37 CFR 1.47(a) is granted.

The above-identified application and papers have been reviewed and are found to be in compliance with 37 CFR 1.47(a). Accordingly, the above-identified application is hereby accorded Rule 1.47(a) status. As provided in 37 CFR 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the last known address provided in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The application is being forwarded to Technology Center Art Unit 1744.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: 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
11/322,777	12/30/2005	1744	1400	GEO2-013	44	6

CONFIRMATION NO. 1049

CORRECTED FILING RECEIPT

64706
GEO2 TECHNOLOGIES
12-R CABOT ROAD
WOBURN, MA 01801

OC000000049713376

Date Mailed: 09/07/2011

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Bilal Zuberi, Cambridge, MA;
Robert G. Lachenauer, Weston, MA;
Sunilkumar C. Pillai, Upper St. Clair, PA;
Biprodas Dutta, Silver Spring, MD;
William M. Carty, Alfred Station, NY;
Hyo Jin Lee, Alfred, NY;
James M. Marshall, Latrobe, PA;

Power of Attorney: The patent practitioners associated with Customer Number 64706

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/737,237 11/16/2005

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: 02/06/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/322,777**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

PROCESS FOR EXTRUDING A POROUS SUBSTRATE

Preliminary Class

264

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.

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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).

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set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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Alexandria, VA 22313-1450
www.uspto.gov

Decision Date : February 13, 2012

In re Application of :

Robert Lins

Application No : 11323002

Filed : 29-Dec-2005

Attorney Docket No : 33939/9

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 13, 2012

The request is **APPROVED**

The request was signed by R. Whitney Johnson (registration no. 62997) on behalf of all attorneys/agents associated with Customer Number 32642 . All attorneys/agents associated with Customer Number 32642 have been withdrawn.

Since there are no remaining attorneys of record, all future communications from the Office will be directed to the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71, with Customer number 102983 .

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	11323002
Filing Date	29-Dec-2005
First Named Inventor	Robert Lins
Art Unit	3775
Examiner Name	CHRISTIAN SEVILLA
Attorney Docket Number	33939/9
Title	Minimally-invasive portal system for performing lumbar decompression, instrumented fusion/stabilization, and the like

◉ Please withdraw me as attorney or agent for the above identified patent application and the practitioners of record associated with Customer Number: 32642

The reason(s) for this request are those described in 37 CFR:

10.40(b)(4)

Certifications

☒ I/We have given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intend to withdraw from employment

☒ I/We have delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled

☒ I/We have notified the client of any responses that may be due and the time frame within which the client must respond

Change the correspondence address and direct all future correspondence to:
The address of the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71, associated with Customer Number: 102983

I am authorized to sign on behalf of myself and all withdrawing practitioners.

Signature	/R. Whitney Johnson/
Name	R. Whitney Johnson
Registration Number	62997

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.
11/323,005	12/30/2005	Graham Sayers	5248-0003-1	6046

7590 11/22/2010
MCCORMICK, PAULDING & HUBER LLP
CITY PLACE II
185 ASYLUM STREET
HARTFORD, CT 06103

EXAMINER
ALEMU, EPHREM

ART UNIT	PAPER NUMBER
2821	

MAIL DATE	DELIVERY MODE
11/22/2010	PAPER

ACKNOWLEDGEMENT OF REQUEST

Notice of Allowance/Allowability Mailed

The request to print a color drawing reference as the first paragraph in the portion of the specification containing a brief description of the drawings as required by 37 CFR 1.84 and MPEP § 608.02 has been received by the United States Patent and Trademark Office and will be entered into the specification.

571-272-4200 or 1-888-786-0101
Application Assistance Unit
Office of Data Management

FORM PTOM327-5 (Rev. 02/08)

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

November 19, 2010

MCCORMICK, PAULDING & HUBER LLP
CITY PLACE II
185 ASYLUM STREET
HARTFORD CT 06103

In re Application of	:	
SAYERS, GRAHAM, et al.	:	
Application No. **11/323005**	:	**DECISION ON PETITION**
Filed: **12/30/2005**	:	
Attorney Docket No: **5248-0003-1**	:	***ACCEPTANCE OF COLOR DRAWINGS***

This is a decision on the Petition to Accept Color Drawings under 37 C.F.R 1.84 (a) (2), received in the United States Patent and Trademark Office (USPTO) December 30, 2005.

A grantable petition under 37 C.F.R. 1.84(a) (2) must be accompanied by the following.

1. The fee set forth under 37 C.F.R. 1.17(h),
2. Three (3) sets of the color drawings in question, or (1) set if filed via EFS, and
3. The specification containing the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings.

   "The file of this patent contains at least one drawing executed in color. Copies of this patent with color drawing(s) will be provided by the Patent and Trademark Office upon request and payment of the necessary fee."

The petition was accompanied by all of the required fees and drawings. The specification contains the appropriate language. Therefore, the petition is GRANTED.

Telephone inquires relating to this decision may be directed to the undersigned in the Office of Data Management at 571-272-4200.

/Bernadette Queen/
Quality Control Specialist
Office of Data Management
Publications Branch

UNITED STATES PATENT AND TRADEMARK OFFICE

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FISH & RICHARDSON P.C. (BO)
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

MAILED
MAY 23 2011
OFFICE OF PETITIONS

In re Patent of Brennan et al.	:	
Patent No. 7,892,735	:	
Issued: February 22, 2011	:	
Application No. 11/323,061	:	ON APPLICATION FOR
Filed: December 30, 2005	:	PATENT TERM ADJUSTMENT
Atty Docket No. 17929-002001	:	

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR § 1.705(d)," filed April 21, 2011. 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-eight (378) days.

The petition is **DISMISSED.**

Patentees argue that the Director erred in the calculation of patent term adjustment by subtracting from the period of B Delay a period of time that was not "consumed by continued examination of the application." The first Request for Continued Examination (RCE) was filed on September 14, 2009. On September 27, 2010, the Office mailed a Notice of Allowance. Patentees argue no continued examination took place during the 149 day period from September 27, 2010 (the mailing date of the Notice of Allowance) until February 22, 2011 (the date the patent issued). Thus, patentees argue 149 days should have been added to the 257 days accorded by the Director for the B Delay period (beginning December 31, 2008 and ending on September 13, 2009, the day before the first RCE was filed).

Patentees' argument has been considered, but has not been found to be persuasive. Per 35 U.S.C. § 154(b)(1)(B)(i), B Delay does

not include "any time consumed by continued examination of the application requested by the applicant under section 132(b)."

Per the language of 37 CFR 1.703(b)(1):

> (b) The period of adjustment under § 1.702(b) is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the sum of the following periods:
>
> > (1) The number of days, if any, in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued;

As stated above, the number of days beginning on the date a RCE was filed and ending on the issuance date of the patent are not included in the B Delay period. The maximum B Delay in this case is 257 days, which is the number of days beginning on December 31, 2008, the day after the date three years after application's the filing date, and ending on September 13, 2009, the day *before* the date the first RCE was filed. The filing of the first RCE cuts off accumulation of any additional period of adjustment for the over three year calculation. All days from the date the first RCE was filed to the date of issuance are not included, per 37 CFR 1.703(b)(1).

The patent term adjustment remains 229 days, which is the sum of 233 days of delay under 35 U.S.C. § 154(b)(1)(A) ("A Delay") and 257 days of B Delay, reduced by 229 days of Applicant delay.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No.
MAILED
JAN 03 2011
OFFICE OF PETITIONS

FITCH EVEN TABIN & FLANNERY
120 SOUTH LASALLE STREET
SUITE 1600
CHICAGO IL 60603-3406

In re Application of	:	
Trecker et al.	:	DECISION ON PETITION
Application No. 11/323,098	:	
Filed: December 30, 2005	:	
Attorney Docket No. 77090	:	

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) filed September 21, 2010.

The petition is **DISMISSED AS INAPPROPRIATE**.

The instant petition was filed by applicant on the basis that the above-identified application had become abandoned for failure to timely file a reply to the request by the examiner in his interview summary mailed August 18, 2010 to file a statement of the substance of the interview. The petition filed September 21, 2010 included the statement.

The interview summary did not state that failure to file the statement would lead to abandonment of the application. Further, no notice of abandonment has been mailed in (or is in the record of) this application. Further, on September 13, 2010, the examiner mailed a final Office action, which set a three-month shortened statutory period for reply, with extensions of time obtainable under 37 CFR 1.136(a). The extendable period for reply to the final Office action remains open.

In view thereof, the petition is dismissed as inappropriate. Petitioner may renew petition (and resubmit refunded petition fee) if the Technology Center holds this application abandoned.

Since consideration of the petition is unnecessary at this time, the petition fee is being refunded.

Technology Center AU 1781 has been advised of this decision. The application is thereby returned to the Technology Center.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Gauthier & Connors LLP
Suite 2300
225 Franklin Street
Boston MA 02110

MAILED
AUG 20 2010
OFFICE OF PETITIONS

In re Application of	:	DECISION ON REQUEST
Nilsson et al.	:	FOR RECONSIDERATION OF
Patent Number: 7,601,353	:	PATENT TERM ADJUSTMENT
Issue Date: 10/13/2009	:	and
Application No. 11/323123	:	NOTICE OF INTENT TO ISSUE
Filing or 371(c) Date: 12/30/2005	:	CERTIFICATE OF CORRECTION
Attorney Docket Number:	:	
STROM.7303(CIP)DIV	:	

This is a decision on the petition filed on filed May 20, 2010, which is being treated as a petition under 37 CFR 1.705(d), requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one hundred sixty-three (163) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one hundred sixty-three (163) days is **GRANTED to the extent indicated herein.**

Applicants suggest that the Office errantly neglected to assess a reduction of 127 days in connection with the filing of a reply to a Notice to File Corrected Application Papers, mailed February 28, 2006.

Applicants also suggest that this Office errantly neglected to assess a reduction of 168 days pursuant to 37 CFR 1.704(c)(7), in connection with the filing of a reply to a Notice of Non-Compliant Amendment, mailed February 21, 2007, informing Applicant that a Preliminary Amendment filed with the application papers on December 30, 2005, was non-compliant.

Applicants also suggest that the Office errantly neglected to assess a reduction of 33 days in connection with the filing of an Amendment in response to the Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures ("Notice"), mailed November 14, 2006, three (3) months and 33 days after the Notice was mailed.

Applicants also assert that the Office errantly neglected to assess a reduction of 6 days in connection with the filing of an Information Disclosure Statement ("IDS"), on August 13, 2009, after the mailing of a Notice of Allowance on May 18, 2009.

Finally, Applicants assert that the Office errantly neglected to assess a reduction of 50 days in connection with the filing of an Information Disclosure Statement ("IDS"), on August 25, 2009, after the mailing of a Notice of Allowance on May 18, 2009.

Applicants do not dispute adjustments of 372 days pursuant to 37 CFR 1.702(a)(1), or 287 days pursuant to 37 CFR 1.702(b), or reductions of 90 days pursuant to 37 CFR 1.704(b), or 111 days pursuant to 37 CFR 1.704(c)(10).

Regarding the filing of a reply to a Notice to File Corrected Application Papers, mailed February 28, 2006, a review of the application history confirms that this Office errantly failed to assess a reduction of 127 days in accordance with 37 CFR 1.704(b) in connection with the filing of a reply to a Notice to File Corrected Application Papers, mailed February 28, 2006. The reduction commenced on the day after the date that is three months after the date of mailing of the filing of a reply to a Notice to File Corrected Application Papers, mailed February 28, 2006, and ending on the date the reply was filed, October 2, 2006. A reduction of 127 days is properly attributed to Applicants pursuant to 37 CFR 1.704(b).

Regarding the filing of a reply to a Notice of Non-Compliant Amendment, mailed February 21, 2007, informing Applicant that a Preliminary Amendment filed with the application papers on December 30, 2005, was non-compliant, a review of the application file history confirms that that no reply was filed on December 30, 2005, and a reduction pursuant to 37 CFR 1.704(c)(7) establishes submission of a *reply* having an omission (37 CFR 1.135(c)) as a circumstance that constitutes a failure of an applicant to engage in reasonable efforts to conclude processing or examination of an application. (Emphasis supplied). Here, no *reply* was filed on December 30, 2005, and no reduction pursuant to 37 CFR 1.704(c)(7) is appropriate[1].

Regarding Applicants assertion that the Office errantly neglected to assess a reduction of 33 days in connection with the filing of an Amendment in response to the Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures ("Notice"), mailed November 14, 2006, three (3) months and 33 days after the Notice was mailed, a review of the application file history reveals that this Office mailed the Notice on November 14, 2006, and Applicants filed a reply to the Notice on January 16, 2007; however, the reply was non-compliant. Applicants were so notified in a Notice of Non-Compliant Amendment mailed February 21, 2007. A reduction of 62 days, pursuant to 37 CFR 1.704(c)(7), began on the day after the date the reply having an omission was filed, January 17,

[1] 37 CFR 1.704(c)(6) provides for a reduction in connection with the "[s]ubmission of a preliminary amendment or other preliminary paper less than one month before the mailing of an Office action under 35 U.S.C. 132 or notice of allowance under 35 U.S.C. 151 that requires the mailing of a supplemental Office action or notice of allowance..." However, this section is inapplicable here.

2007, and ending on the date that the reply or other paper correcting the omission was filed, March 19, 2007, is appropriate.

Regarding Applicants assertion that the Office errantly neglected to assess a reduction of 6 days in connection with the filing of an Information Disclosure Statement ("IDS"), on August 13, 2009, after the mailing of a Notice of Allowance on May 18, 2009, a review of Office records confirms that Applicants filed an IDS on August 13, 2009, after the mailing of the Notice of Allowance on May 18, 2009. The Office mailed a response to the IDS on August 18, 2009. Pursuant to 37 CFR 1.704(c)(10), a reduction of six (6) days is appropriate. However, this period of reduction overlaps with the reduction of 111 days pursuant to 37 CFR 1.704(c)(10), in connection with the filing of Replacement Figures on June 25, 2009, and ending on the date the patent issued, October 13, 2009[2].

It is also noted that the response to the IDS mailed by this Office informed Applicants that the IDS was non-compliant, and Applicants thereafter filed a Response to the Notice of Non-Compliant IDS Certification Under 37 CFR 1.97(e) on August 25, 2009. Pursuant to 37 CFR 1.704(c)(8), a reduction of 12 days, beginning on the day after the date the initial reply was filed, August 14, 2009, and ending on the date that the supplemental reply or other such paper was filed, August 25, 2009, is appropriate. However, this period of reduction also overlaps with the reduction of 111 days pursuant to 37 CFR 1.704(c)(10), in connection with the filing of Replacement Figures on June 25, 2009, and ending on the date the patent issued, October 13, 2009.

Regarding Applicants assertion that the Office errantly neglected to assess a reduction of 50 days in connection with the filing of an Information Disclosure Statement ("IDS"), on August 25, 2009, after the mailing of a Notice of Allowance on May 18, 2009, a review of Office records confirms that Applicants filed an IDS on August 25, 2009, after the mailing of the Notice of Allowance on May 18, 2009. Pursuant to 37 CFR 1.704(c)(10), a reduction of 50 days, beginning on the date the IDS was filed, and ending on the issue date of the patent, October 13, 2009, is appropriate. However, this period of reduction also overlaps with the reduction of 111 days pursuant to 37 CFR 1.704(c)(10), in connection with the filing of Replacement Figures on June 25, 2009, and ending on the date the patent issued, October 13, 2009.

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.

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[2] 37 CFR 1.704(c) states:

> Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 *to the extent that the periods are not overlapping*: (Emphasis supplied).

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificate of Corrections Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by two hundred sixty-nine **(269)** days (Office adjustments of 659 days – Applicants delays of 390 days (127 days + 62 days + 90 days + 111 days)).

Telephone inquiries specific to this matter should be directed to the undersigned 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 : 7,601,353 B2

DATED : **October 13, 2009**

INVENTOR(S) : Nilsson 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 458 days.

Delete the phrase "by 458 days" and insert – by 269 days--

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7,185,563	2007-03-06	11/323,129	2005-12-30	0052-01433CON

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	◉ 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

○ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

◉ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

A Joint Patentee and I certify that I am authorized to sign this submission on behalf of all the other patentees			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature.			
Signature	/Ira Kozak/	Date (YYYY-MM-DD)	2011-05-26
Name	Ira Kozak		

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. 7185563
Issue Date: March 6,2007
Application No. 11323129
Filed: December 30,2005
Attorney Docket No. 0052-01433CON

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed May 26,2011 ,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 26,2011 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED
JUN 16 2011
OFFICE OF PETITIONS

Laboratory Corporation of America Holdings
c/o Kilpatrick Townsend & Stockton LLP
1001 West Fourth Street
Winston-Salem NC 27101

In re Application of	:	
Christos J. Petropoulos et al.	:	
Application No. 11/323,189	:	NOTICE
Patent No. 7,169,551	:	
Filed: December 29, 2005	:	
Attorney Docket No. **11068-182-999**		

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 May 18, 2011.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-2783.

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Decision Date : August 5,2011

In re Application of :

Steven Zettner

DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 11323202

Filed : 30-Dec-2005

Attorney Docket No : US-0064.03|2244.300US1

This is an electronic decision on the petition under 37 CFR 1.313(c)(2), filed August 5,2011 , 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 3684 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	11323202
Filing Date	30-Dec-2005
First Named Inventor	Steven Zettner
Art Unit	3684
Examiner Name	NGA NGUYEN
Attorney Docket Number	US-0064.03|2244.300US1
Title	COMPREHENSIVE ONLINE LOAN TRANSACTION

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 2011.08.08	
☐ 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	/John I. Fischer/
Name	John I. Fischer
Registration Number	60900

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: 42P22435	Patent Number: 7,664,970
Filing Date (or 371(b) or (f) Date): 12-30-2005	Issue Date: 02-16-2010
First Named Inventor: Sanjeev Jahagirdar	
Title: METHOD AND APPARATUS FOR A ZERO VOLTAGE PROCESSOR SLEEP STATE	

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 C. Fagan/Reg. No. 37,542	Date July 9, 2010
Name (Print/Typed) Matthew C. Fagan	Registration Number 37,542

***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
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Alexandria, Virginia 22313-1450
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INTEL/BSTZ
BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

Mail Date: 08/17/2010

Applicant	: Sanjeev Jahagirdar	: DECISION ON REQUEST FOR
Patent Number	: 7664970	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/323,254	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/30/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **669** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

ExxonMobil Research and Engineering Company
P. O. Box 900
Annandale NJ 08801-0900

MAILED
MAY 19 2011
OFFICE OF PETITIONS

In re Application of	:	
Brandon T. Weldon et al.	:	
Application No. 11/323,273	:	DECISION ON PETITION
Filed: December 30, 2005	:	
Attorney Docket No. GPK.0510	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 18, 2011, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before March 2, 2011, as required by the Notice of Allowance and Fee(s) Due, mailed December 2, 2010. Accordingly, the date of abandonment of this application is March 3, 2011. A Notice of Abandonment was mailed on March 17, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,510 and the publication fee of $300, (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay. Accordingly, the issue and publication fees are accepted as being unintentionally delayed.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to the Office of Data Management for further processing into a patent.

/Kimberly A. Inabinet/

Kimberly A. Inabinet
Petitions Examiner
Office of Petitions

cc: Liza Montalvo
1545 Route 22 East
Annandale, NJ 08801-0900

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

December 17, 2011

K&L Gates LLP
1900 MAIN STREET, SUITE 600
IRVINE CA 92614-7319

In re Application of	:	
Chauncey B. Sayre et al.	:	**DECISION ON PETITION**
Application No. 11323276	:	
Filed: 12/30/2005	:	***ACCEPTANCE OF COLOR***
Attorney Docket No. **51314-00015**	:	***DRAWINGS***

This is a decision on the Petition to Accept Color Drawings under 37 C.F.R 1.84 (a) (2), received in the United States Patent and Trademark Office (USPTO) December 30, 2005.

The petition is **GRANTED**.

A grantable petition under 37 C.F.R. 1.84(a) (2) must be accompanied by the following.

1. The fee set forth under 37 C.F.R. 1.17(h),
2. Three (3) sets of the color drawings in question, or (1) set if filed via EFS, and
3. The specification contains appropriate language referring to the color drawings as the first paragraph in that portion of the specification relating to the brief description of the drawings.

The petition was accompanied by all of the required fees and drawings. The specification contains the appropriate language. Therefore, the petition is GRANTED.

Telephone inquires relating to this decision may be directed to the undersigned in the Office of Data Management at 571-272-4200.

/Laura Feldman/
Quality Control Specialist
Office of Data Management
Publications Branch

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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FOLEY & LARDNER LLP
111 HUNTINGTON AVENUE
26TH FLOOR
BOSTON MA 02199-7610

MAILED
FEB 28 2011
OFFICE OF PETITIONS

In re Application of :
Sundarrajan et al. :
Application No. 11/323,353 :
Filed: December 30, 2005 :
Attorney Dkt. No. 2006579-0531(CTX-184) :
For: SYSTEM AND METHOD FOR PERFORMING FLASH CROWD CACHING OF DYNAMICALLY GENERATED OBJECTS IN A DATA COMMUNICATION NETWORK :

ON APPLICATION FOR PATENT TERM ADJUSTMENT

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT FOR PATENT APPLICATION UNDER 37 C.F.R.§1.705(b)", filed December 29, 2010. Applicants request that the determination of patent term adjustment be corrected from six hundred fifteen (615) days to six hundred thirty-eight (638) days.

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 fee set forth in 37 CFR 1.18(e) is required and will not be refunded.

The application for patent term adjustment is **GRANTED**.

Applicants dispute the 23 day reduction for the submission of the terminal disclaimer on October 20, 2010. Applicants contend the terminal disclaimer was submitted with the amendment on September 27, 2010, not October 20, 2010 in response to the June 25, 2010 non-final Office. The patent term was reduced based upon the approval of the terminal disclaimer dated October 20, 2010. Thus, applicants contend the 23 day reduction is not required.

A review of the record shows that the 23 day reduction for the submission of the terminal disclaimer is not warranted. The record shows that the terminal disclaimer was submitted on September 27, 2010 with the response to the June 25, 2010 Office action. The document dated October 20, 2010 is a Office form which approves the terminal disclaimer submitted September 27, 2010. As such the 23 day reduction will be removed.

Applicants' delay prior to the mailing of the Notice of Allowance is 33 (2 + 29 + 2) days. Office delay prior to the mailing of the Notice of Allowance is 671 days.

In view thereof, the correct patent term adjustment at the time of the mailing of the notice of allowance is six hundred thirty-eight (638) days.

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and **must** include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3215.

Charlema Grant
Attorney
Office of Petitions

Enclosure: Copy of REVISED PALM Screen

Patent Term Adjustments

PTA/PTE Information | Patent Term Adjustment | Patent Term Extension

Application Number*: 11323353 Search | Explanation of PTA Calculation | Explanation of PTE Calculation

PTA Calculations for Application: 11323353

Application Filing Date	12/30/2005	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	671
A Delays	671	PTO Manual Adjustment	23
B Delays	0	Applicant Delay (APPL)	56
C Delays	0	Total PTA (days)	638

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
108	02/28/2011		P028	Adjustment of PTA Calculation by PTO	23		0
92	11/15/2010		MN/=.	Mail Notice of Allowance			0
91	11/09/2010		IREV	Issue Revision Completed			0
90	11/09/2010		DVER	Document Verification			0
89	11/09/2010		N/=.	Notice of Allowance Data Verification Completed			0
87	11/08/2010		EX.A	Examiner's Amendment Communication			0
86	11/08/2010		CNTA	Allowability Notice			0
82	10/20/2010		P574	Paralegal TD Accepted			0
81	10/20/2010	09/27/2010	DIST	Terminal Disclaimer Filed		23	76
77	09/28/2010		FWDX	Date Forwarded to Examiner			0
83	09/27/2010		IDSC	Information Disclosure Statement considered			0
80	09/27/2010		RCAP	Reference capture on IDS			0
79	09/27/2010		TDP	terminal disclaimer fee paid			0
78	09/27/2010		M844	Information Disclosure Statement (IDS) Filed			0
76	09/27/2010	09/25/2010	A...	Response after Non-Final Action		2	72
75	09/27/2010		WIDS	Information Disclosure Statement (IDS) Filed			0
74	06/25/2010		ELC_RVW	Electronic Review			0
73	06/25/2010		EML_NTF	Email Notification			0
72	06/25/2010		MCTNF	Mail Non-Final Rejection			0
71	06/21/2010		CTNF	Non-Final Rejection			0
70	03/31/2010		FWDX	Date Forwarded to Examiner			0
69	03/10/2010		A...	Response after Non-Final Action			0
68	03/09/2010		MEXIN	Mail Examiner Interview Summary (PTOL - 413)			0
67	03/04/2010		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
66	12/10/2009		MCTNF	Mail Non-Final Rejection			0
65	12/07/2009		CTNF	Non-Final Rejection			0
61	10/10/2009		FWDX	Date Forwarded to Examiner			0
59	10/10/2009		FWDX	Date Forwarded to Examiner			0
57	10/10/2009		ABN9	Disposal for a RCE / CPA / R129			0
54	10/07/2009		DOCK	Case Docketed to Examiner in GAU			0
64	10/02/2009		IDSC	Information Disclosure Statement considered			0
63	10/02/2009		RCAP	Reference capture on IDS			0
62	10/02/2009	10/02/2009	M844	Information Disclosure Statement (IDS) Filed			58
60	10/02/2009		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE			0
58	10/02/2009	09/03/2009	RCEX	Request for Continued Examination (RCE)		29	45
56	10/02/2009		XT/G	Request for Extension of Time - Granted			0
53	10/02/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
52	10/02/2009		BRCE	Workflow - Request for RCE - Begin			0
51	09/21/2009		MEXIN	Mail Examiner Interview Summary (PTOL - 413)			0
50	09/15/2009		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
49	08/18/2009		MCTAV	Mail Advisory Action (PTOL - 303)			0
48	08/17/2009		CTAV	Advisory Action (PTOL-303)			0
47	08/11/2009		FWDX	Date Forwarded to Examiner			0
46	08/03/2009		A.NE	Amendment after Final Rejection			0
45	06/03/2009		MCTFR	Mail Final Rejection (PTOL - 326)			0
44	06/03/2009		CTFR	Final Rejection			0
39	04/02/2009		FWDX	Date Forwarded to Examiner			0
37	03/31/2009		DOCK	Case Docketed to Examiner in GAU			0
43	03/30/2009		IDSC	Information Disclosure Statement considered			0
42	03/30/2009		RCAP	Reference capture on IDS			0
41	03/30/2009		M844	Information Disclosure Statement (IDS) Filed			0
40	03/30/2009		C614	New or Additional Drawing Filed			0
38	03/30/2009		A...	Response after Non-Final Action			0
36	03/30/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
35	12/30/2008	02/28/2007	MCTNF	Mail Non-Final Rejection	671		-1

34	12/24/2008		CTNF	Non-Final Rejection		0
27	09/09/2008		DOCK	Case Docketed to Examiner in GAU		0
28	02/15/2008		IDSC	Information Disclosure Statement considered		0
26	02/15/2008		RCAP	Reference capture on IDS		0
25	02/15/2008		M844	Information Disclosure Statement (IDS) Filed		0
24	02/15/2008		WIDS	Information Disclosure Statement (IDS) Filed		0
22	07/06/2007		DOCK	Case Docketed to Examiner in GAU		0
21	07/05/2007		PG-ISSUE	PG-Pub Issue Notification		0
20	06/06/2007		C.AD	Correspondence Address Change		0
19	05/29/2007		DOCK	Case Docketed to Examiner in GAU		0
18	02/28/2007		TSSCOMP	IFW TSS Processing by Tech Center Complete		0
17	01/18/2007		WROIPE	Application Return from OIPE		0
16	01/18/2007		COMP	Application Is Now Complete		0
14	01/18/2007		W/OA	Pre-Exam Office Action Withdrawn		0
13	01/18/2007		ROIPE	Application Return TO OIPE		0
12	01/18/2007		OIPE	Application Dispatched from OIPE		0
11	01/18/2007		COMP	Application Is Now Complete		0
7	01/08/2007		MPTGR	Mail-Petition Decision - Granted		0
6	11/14/2006		PET.	Petition Entered		0
8	10/30/2006		WPABN	Withdraw Pre-Exam Abandon		0
5	05/16/2006		ABNX	Abandonment -- During Preexam Processing		0
15	05/15/2006	05/13/2006	FLFEE	Payment of additional filing fee/Preexam	2	4
9	05/15/2006		OATHDECL	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic		0
4	02/13/2006		INCD	Notice Mailed--Application Incomp!ete--Filing Date Assigned		0
3	01/20/2006		L194	Cleared by OIPE CSR		0
2	01/15/2006		SCAN	IFW Scan & PACR Auto Security Review		0
1	12/30/2005		IEXX	Initial Exam Team nn		0

Export to: Excel

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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MOTOROLA MOBILITY, INC
600 NORTH US HIGHWAY 45
W2-55BB
LIBERTYVILLE IL 60048-5343

MAILED
FEB 17 2011
OFFICE OF PETITIONS

In re Application of :
He :
Application No. 11/323,499 : DECISION ON PETITION
Filed: December 31, 2005 :
Attorney Docket No. CS26744RL :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 28, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely submit the issue and publication fees, as required by the Notice of Allowance and Fee (s) Due, which was mailed June 28, 2010. The Notice of Allowance and Fee (s) Due and the Notice of Allowability set a three (3) month statutory period for reply. Extensions of time were not available under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on September 29, 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 payment of the $1510 issue and publication fees 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) 272-3215.

This application is being referred to the Office of Data Management for further processing.

Charlema Grant

Charlema Grant
Petitions Attorney
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	11323517
Filing Date	30-Dec-2005
First Named Inventor	Geetha Mangalore
Art Unit	2433
Examiner Name	HEE SONG
Attorney Docket Number	BCS03957
Title	METHOD AND APPARATUS FOR PROVISIONING A DEVICE TO ACCESS DIGITAL RIGHTS MANAGEMENT (DRM) SERVICES IN A UNIVERSAL PLUG AND PLAY (UPNP) NETWORK

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus any extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee – required for all utility and plant applications filed before June 8, 1995; and for all design applications;
(4) Statement that the entire delay was unintentional.

Petition fee
The petition fee under 37CFR 1.17(m) is attached.

☐ Applicant claims SMALL ENTITY status. See 37 CFR 1.27.

☐ Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

☐ Applicant(s) status remains as SMALL ENTITY.

☒ Applicant(s) status remains as other than SMALL ENTITY.

Issue Fee and Publication Fee :

Issue Fee and Publication Fee must accompany ePetition.

☒ Issue Fee Transmittal is attached

Drawing corrections and/ or other deficiencies.

- (●) Drawing corrections and/ or other deficiencies are not required
- ( ) I certify, in accordance with 37 CFR 1.4.(D)(4), that drawing corrections and/ or other deficiencies have previously been filed on
- ( ) Drawing corrections and/ or other deficiencies are attached.

☒ STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional.

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

I certify, in accordance with 37 CFR 1.4(d)(4) that I am:

- (●) An attorney or agent registered to practice before the Patent and Trademark Office who has been given power of attorney in this application.
- ( ) An attorney or agent registered to practice before the Patent and Trademark Office, acting in a representative capacity.
- ( ) A sole inventor
- ( ) A joint inventor; I certify that I am authorized to sign this submission on behalf of all of the inventors.
- ( ) A joint inventor; all of whom are signing this e-petition.
- ( ) The assignee of record of the entire interest that has properly made itself of record pursuant to 37 CFR 3.71.

Signature	/Stewart M. Wiener/
Name	Stewart M. Wiener
Registration Number	46201

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Decision Date : April 5, 2012

In re Application of :

Geetha Mangalore

Application No : 11323517

Filed : 30-Dec-2005

Attorney Docket No : BCS03957

DECISION ON PETITION

UNDER CFR 1.137(b)

This is an electronic decision on the petition under 37 CFR 1.137(b), filed April 5, 2012 , to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Allowance and Issue Fee(s) Due. The date of abandonment is the day after the expiration date of the period set for reply in the Notice.

The electronic petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the Issue Fee and the Publication Fee (if necessary); (2) the petition fee as set forth in 37 CFR 1.17 (m); (3) the drawing correction and/or other deficiencies (if necessary); and (4) the required statement of unintentional delay have been received. Accordingly, the Issue Fee payment is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the Patent Electronic Business Center (EBC) at 866-217-9197.

This application file is being directed to the Office of Data Management.

Office of Petitions

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

JINTAI DING
8190 MARGARET LANE
CINCINNATI OH 45242

MAILED

NOV 05 2010

OFFICE OF PETITIONS

In re Application of
Jintai DING
Application No. 11/323,597
Filed: December 30, 2005
Attorney Docket No.

ON PETITION

This is in response to the communication, filed October 5, 2010, to revive the above-identified application, which is being treated as a petition to withdraw the holding of abandonment under 37 CFR 1.181.

The petition is **DISMISSED**.

Any request for reconsideration of this decision should be submitted within two (2) months from the mail date of this decision and be entitled "Renewed Petition to Withdraw the Holding of Abandonment under 37 CFR 1.181." *See* 37 CFR 1.181(f).

On December 2, 2009, the Office mailed a Notice of Allowance and Fee(s) Due (Notice), which set a period to reply of three (3) months. The application became abandoned on March 3, 2010, for failure to submit a timely response to the Notice. On March 17, 2010, 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 Notice mailed December 2, 2009.

A review of the record indicates no irregularity in the mailing of the Notice, and in the absence of any irregularity in the mailing, there is a strong presumption that the Office action was properly mailed to the address of record.

As petitioner is a pro-se applicant, the Office understands that petitioner may not keep a formal docket record system for his correspondence. Nevertheless, petitioner must provide some sort of showing explaining the manner in which petitioner receives mail from the USPTO, maintains files for patent matters, and treats mail received for such matter. Specifically, petitioner must explain the system for keeping track of patent matters - where petitioner keeps the correspondence; where he writes down due dates; how he knows replies are due, etc. In essence,

petitioner must explain how he reminds himself of response due dates and show that the due date for the Notice dated December 2, 2009, was not entered into that system. Petitioner should include any available documentary evidence of the mail received, covering a reasonable period after December 2, 2009, to demonstrate non receipt of the Notice. Petitioner should also provide the USPTO with copies of any records or other methods, which could serve as a reminder of the due date for a response to an Office action, and where petitioner would have entered the receipt date of the Office action had petitioner received it (for example, a copy of the outside of a file or a calendar maintained by petitioner), if these documents are available. Furthermore, petitioner must include a statement from himself, or any other person at the address who may have handled the Office action, indicating that a search was conducted of the location where the correspondence from the USPTO would have been kept; however, the Notice was not found. Lastly, petitioner must state that he was, in fact, residing at the correspondence address of record for a reasonable time after December 2, 2009; the period when he would have received the Notice.

In the present petition, petitioner did not submit any statements, documentary evidence, or an explanation of his method for tracking due dates for filing responses to communications from the USPTO to show he did not receive the Notice. 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 current petition fee as set forth in 37 CFR 1.17(m), is **$1620 ($810 for a small entity)**;
>
> (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

A form for filing a petition to revive an unintentionally abandoned application and a copy of the Notice dated December 2, 2009, accompany 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 ($810 small entity) petition fee.

Petitioner may wish to consider hiring a registered patent attorney or agent to assist in the prosecution of this application. Additionally, petitioner is encouraged to contact the Inventors Assistance Center (IAC) by telephone at 800-786-9199 or 571-272-1000, Monday through Friday from 8:30 AM to 5:30 PM (EST). The IAC provides patent information and services to the public and is staffed by former Supervisory Patent Examiners and experienced Primary Examiners who answer general questions concerning patent examining policy and procedure.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries related to this decision may be directed to Diane Goodwyn at (571) 272-6735.

Thurman K. Page
Petitions Examiner
Office of Petitions

Enclosures: Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b); Form PTO/SB/64, Privacy Act Statement; and a copy of the Office action dated December 2, 2009.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JINTAI DING
8190 MARGARET LANE
CINCINNATI OH 45242

MAILED
DEC 13 2010
OFFICE OF PETITIONS

In re Application of	:	
Jintai DING	:	
Application No. 11/323,597	:	ON PETITION
Filed: December 30, 2005	:	
Attorney Docket No.	:	

This is a decision on the renewed petition, filed November 9, 2010, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision should be submitted within **two (2) months** from the mail date of this decision and be entitled "Renewed Petition to Withdraw the Holding of Abandonment under 37 CFR 1.181." *See* 37 CFR 1.181(f).

On December 2, 2009, the Office mailed a Notice of Allowance and Fee(s) Due (Notice), which set a period to reply of three (3) months. The application became abandoned on March 3, 2010, for failure to submit a timely response to the Notice. On March 17, 2010, the Office mailed a Notice of Abandonment.

In the renewed petition submitted November 9, 2010, the Office acknowledges the statements made by petitioner, however, petitioner did not include a statement from the person who handled the mail. In this regard, a statement from your wife, Romeliza Villegas-Ding, detailing how she handles the mail once received at the address of record. In addition, a statement is needed indicating a search was conducted of the location where the Notice dated December 2, 2009, from the USPTO would have been kept, however, the Notice was not found. Since the evidence submitted with the renewed petition filed November 9, 2010, is insufficient, 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 current petition fee as set forth in 37 CFR 1.17(m), is **$1620 ($810 for a small entity)**;

(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

A form for filing a petition to revive an unintentionally abandoned application and a copy of the Notice dated December 2, 2009, accompany 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 ($810 small entity) 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.

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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 Diane Goodwyn at (571) 272-6735.

Thurman K. Page
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JINTAI DING
8190 MARGARET LANE
CINCINNATI OH 45242

MAILED

FEB 14 2011

OFFICE OF PETITIONS

In re Application of :
DING :
Application No. 11/323,597 : DECISION ON PETITION
Filed: December 30, 2005 :
Attorney Docket No. :

This is a decision on the renewed petition, filed January 4, 2011, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely pay the issue and publication fees on or before March 2, 2010, as required by the Notice of Allowance and Fee(s) Due (Notice), mailed December 2, 2009, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on March 3, 2010.

Petitioner asserts that the Notice dated December 2, 2009, was not received and has included with the renewed petition dated January 4, 2011, a statement signed by Romeliza Villegas-Ding detailing how she handles the mail once received at the address of record. In addition, Romeliza Villegas-Ding has signed a statement asserting a search was conducted at the location where the Notice dated December 2, 2009, from the USPTO would have been kept, however, the Notice was not found.

In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

This application is being referred to the Technology Center AU 2438 technical support staff for **re-mailing** of the Notice of Allowance and Fee(s) Due dated December 2, 2009. The period for paying the issue and publication fees will be reset to expire three (3) months from the date the Notice is re-mailed. This period is not extendable under the provisions of 37 CFR 1.136.

Telephone inquiries concerning this decision 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.:20110509

DATE : May 09, 2011

TO SPE OF : ART UNIT 2819

SUBJECT : Request for Certificate of Correction on Patent No.: 7183957

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 wanted to correct Fig. 5, however, the replacement Fig. 5 and original Fig. 5 are identical. No correction is needed.

/SHAWKI S ISMAIL/
Supervisory Patent Examiner.Art Unit 2819

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Date Mailed : 05/10/11

Patent No. : 7183957 B1
Patent Issued : 02/27/07
Docket No. : **1570-CA**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322.

Respecting the alleged errors in the documents filed on 04/27/11; please see attachments. **"Therefore, no correction(s) is in order here under United States Codes (U.S.C.) 254 and the Code of Federal Regulation (C.F.R.) 1322."**

In view of the foregoing, your request in this matter is hereby denied.

Lamonte M. Newsome
For Mary Diggs, Supervisor
Decisions & Certificates
Of Correction Branch
(571) 272-3421 or (703) 305-8309

HAMILTON & TERRILE, LLP
PO BOX 203518
AUSTIN TX 78720

LMN

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110509

DATE : May 09, 2011

TO SPE OF : ART UNIT 2819

SUBJECT : Request for Certificate of Correction on Patent No.: 7183957

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 wanted to correct Fig. 5, however, the replacement Fig. 5 and original Fig. 5 are identical. No correction is needed.

/SHAWKI S ISMAIL/
Supervisory Patent Examiner.Art Unit 2819

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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MAILED

OCT 26 2010

OFFICE OF PETITIONS

MACMILLAN, SOBANSKI & TODD, LLC
ONE MARITIME PLAZA, FIFTH FLOOR, 720 WATER STREET
TOLEDO, OH 43604

In re Application of :
Jonathan M. Verhoff, et al. :
Application No. 11/323,718 : ON PETITION
Filed: December 30, 2005 :
Attorney Docket No.: 25585A :

This is a decision on the petition, filed August 26, 2010, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is not signed by a patent practitioner of record in the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature of Ted C. Gillespie appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts.

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue and publication fees on or before August 18, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed March 18, 2010, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on August 19, 2010.On August 26, 2010, the present petition was filed. A Notice of Abandonment was subsequently mailed on September 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 the $1,510 issue fee and the $300 publication fee; (2) the petition fee of $1,620; and (3) an adequate statement of unintentional delay[1].

The application is being referred to the Office of Data Management to be processed into a patent.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing as a patent should be directed to (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. While it is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997).

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.
11/323,762	12/30/2005	Robert P. Morris	I359/US	5811

49278 7590 01/26/2011
SCENERA RESEARCH, LLC
5400 Trinity Road
Suite 303
Raleigh, NC 27607

EXAMINER
RUIZ, ANGELICA

ART UNIT	PAPER NUMBER
2158	

MAIL DATE	DELIVERY MODE
01/26/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

John A. Demons
SCENERA RESEARCH, LLC
5400 Trinity Road
Suite 303
Raleigh, North Carolina 27607

In re Application of:
Robert P. MORRIS
Appl. No.: 12/323,762
Filed: December 12, 2005
For: METHOD AND APPARATUS FOR PROVIDING CUSTOMIZED SUBSCRIPTION DATA

DECISION ON PETITION UNDER 37 CFR § 1.103(a)

This is a decision on the petition for suspension of prosecutions under 37 CFR § 1.103(a) filed on 24 January 2011.

The petition is **GRANTED**.

Pursuant to applicant's requests filed on 24 January 2011, action by the Office is suspended on this application under 37 CFR § 1.103(a) for a period of ***three (3) months from the mailing date of this letter***. At the end of this period, applicant is required to notify the examiner and request continuance of prosecution or a further suspension. See MPEP § 709.

Suspension of action under 37 CFR § 1.103(a)-(d) at the applicant's request will cause a reduction in patent term adjustment accumulated (if any) under 37 CFR § 1.703. The reduction is equal to the number of days beginning on the date a request for suspension of action was filed and ending on the date of the termination of the suspension. See 37 CFR § 1.704(c)(1).

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3613.

/Vincent N. Trans/
Vincent N. Trans, SPRE/QAS
Technology Center 2100
Computer Architecture and Software

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
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/323,762	12/30/2005	Robert P. Morris	1359/US	5811

49278 7590 04/28/2011
SCENERA RESEARCH, LLC
5400 Trinity Road
Suite 303
Raleigh, NC 27607

EXAMINER
RUIZ, ANGELICA

ART UNIT	PAPER NUMBER
2158	

MAIL DATE	DELIVERY MODE
04/28/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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John A. Demos
SCENERA RESEARCH, LLC
5400 Trinity Road
Suite 303
Raleigh, North Carolina 27607

In re Application of: Robert P. MORRIS Appl. No.: 11/323,762 Filed: December 30, 2005 For: METHOD AND APPARATUS FOR PROVIDING CUSTOMIZED SUBSCRIPTION DATA	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 26 April 2011.

The petition is **GRANTED**.

Pursuant to applicant's request filed on 26 April 2011, action by the Office is suspended on this application under 37 CFR § 1.103(a) for a period of three (3) months from the mailing date of this letter. At the end of this period, applicant is required to notify the examiner and request continuance of prosecution or a further suspension. See MPEP § 709.

Suspension of action under 37 CFR § 1.103(a)-(d) at the applicant's request will cause a reduction in patent term adjustment accumulated (if any) under 37 CFR § 1.703. The reduction is equal to the number of days beginning on the date a request for suspension of action was filed and ending on the date of the termination of the suspension. See 37 CFR § 1.704(c)(1).

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3613.

/Vincent N. Trans/
Vincent N. Trans, 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
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/323,762	12/30/2005	Robert P. Morris	I359/US	5811

49278 7590 08/01/2011
SCENERA RESEARCH, LLC
5400 Trinity Road
Suite 303
Raleigh, NC 27607

EXAMINER
RUIZ, ANGELICA

ART UNIT	PAPER NUMBER
2158	

MAIL DATE	DELIVERY MODE
08/01/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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John A. Demos
SCENERA RESEARCH, LLC
5400 Trinity Road
Suite 303
Raleigh, North Carolina 27607

In re Application of: Robert P. MORRIS Appl. No.: 11/323,762 Filed: December 30, 2005 For: METHOD AND APPARATUS FOR PROVIDING CUSTOMIZED SUBSCRIPTION DATA	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 27 July 2011.

The petition is **GRANTED**.

Pursuant to applicant's request filed on 27 July 2011, action by the Office is suspended on this application under 37 CFR § 1.103(a) for a period of three (3) months from the mailing date of this letter. At the end of this period, applicant is required to notify the examiner and request continuance of prosecution or a further suspension. See MPEP § 709.

Suspension of action under 37 CFR § 1.103(a)-(d) at the applicant's request will cause a reduction in patent term adjustment accumulated (if any) under 37 CFR § 1.703. The reduction is equal to the number of days beginning on the date a request for suspension of action was filed and ending on the date of the termination of the suspension. See 37 CFR § 1.704(c)(1).

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3613.

/Vincent N. Trans/
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Technology Center 2100
Computer Architecture and Software

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/323,762	12/30/2005	Robert P. Morris	1359/US	5811

49278 7590 11/04/2011
SCENERA RESEARCH, LLC
5400 Trinity Road
Suite 303
Raleigh, NC 27607

EXAMINER
RUIZ, ANGELICA

ART UNIT	PAPER NUMBER
2158	

MAIL DATE	DELIVERY MODE
11/04/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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John A. Demos
SCENERA RESEARCH, LLC
5400 Trinity Road
Suite 303
Raleigh, North Carolina 27607

In re Application of:
Robert P. MORRIS
Appl. No.: 11/323,762
Filed: December 30, 2005
For: METHOD AND APPARATUS FOR PROVIDING CUSTOMIZED SUBSCRIPTION DATA

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 01 November 2011.

The petition is **GRANTED**.

Pursuant to applicant's request filed on 01 November 2011, action by the Office is suspended on this application under 37 CFR § 1.103(a) for a period of three (3) months from the mailing date of this letter. At the end of this period, applicant is required to notify the examiner and request continuance of prosecution or a further suspension. See MPEP § 709.

Suspension of action under 37 CFR § 1.103(a)-(d) at the applicant's request will cause a reduction in patent term adjustment accumulated (if any) under 37 CFR § 1.703. The reduction is equal to the number of days beginning on the date a request for suspension of action was filed and ending on the date of the termination of the suspension. See 37 CFR § 1.704(c)(1).

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3613.

/Vincent N. Trans/
Vincent N. Trans, SPRE/QAS
Technology Center 2100
Computer Architecture and Software

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/323,762	12/30/2005	Robert P. Morris	1359/US	5811

49278 7590 02/13/2012
SCENERA RESEARCH, LLC
5400 Trinity Road
Suite 303
Raleigh, NC 27607

EXAMINER
RUIZ, ANGELICA

ART UNIT	PAPER NUMBER
2158	

MAIL DATE	DELIVERY MODE
02/13/2012	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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John A. Demos
SCENERA RESEARCH, LLC
5400 Trinity Road
Suite 303
Raleigh, North Carolina 27607

In re Application of: Robert P. MORRIS Appl. No.: 11/323,762 Filed: December 30, 2005 For: METHOD AND APPARATUS FOR PROVIDING CUSTOMIZED SUBSCRIPTION DATA	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 07 February 2012.

The petition is **GRANTED**.

Pursuant to applicant's request filed on 07 February 2012, action by the Office is suspended on this application under 37 CFR § 1.103(a) for a period of three (3) months from the mailing date of this letter. At the end of this period, applicant is required to notify the examiner and request continuance of prosecution or a further suspension. See MPEP § 709.

Suspension of action under 37 CFR § 1.103(a)-(d) at the applicant's request will cause a reduction in patent term adjustment accumulated (if any) under 37 CFR § 1.703. The reduction is equal to the number of days beginning on the date a request for suspension of action was filed and ending on the date of the termination of the suspension. See 37 CFR § 1.704(c)(1).

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3613.

/Vincent N. Trans/
Vincent N. Trans, QAS
Technology Center 2100
Computer Architecture and Software

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LAW OFFICES OF MIKIO ISHIMARU / SISA
2055 GATEWAY PLACE, SUITE 700
SAN JOSE, CA 95110

MAILED
JUN 17 2011
OFFICE OF PETITIONS

In re Application of
Haesung KWON, et *al.*
Application No. 11/323,778
Filed: December 30, 2005
Attorney Docket No. **48-144-4CP**

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 June 16, 2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on May 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 should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 2627 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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VALEO RADAR SYSTEMS, INC.
c/o DALY, CROWLEY, MOFFORD AND DURKEE, LLP
354A TURNPIKE STREET
SUITE 301-A
CANTON MA 02021-2714

MAILED
OCT 18 2010
OFFICE OF PETITIONS

In re Patent of Stephen P. Leblanc et al.	:	DECISION ON REQUEST
Patent No. 7,603,097	:	FOR RECONSIDERATION OF
Issue Date: October 13, 2009	:	PATENT TERM ADJUSTMENT
Application No. 11/323,816	:	AND NOTICE OF INTENT TO
Filing Date: December 30, 2005	:	ISSUE CERTIFICATE OF
Attorney Docket No. VRS-012AUS	:	CORRECTION

This is a decision in response to the "Request for Recalculation of Patent Term Adjustment in View of *Wyeth*" filed May 18, 2010.

The request for reconsideration of the patent term adjustment is **dismissed**.

The patent issued October 13, 2009. The patent term adjustment indicated on the patent was 608 days.

A "Request for Recalculation of Patent Term Adjustment in View of *Wyeth*" was filed April 9, 2010.

On April 20, 2010, the Office issued a decision in response to the April 9, 2010 request. The decision indicated the Office planned to issue a certificate of correction indicating the term of the patent is extended or adjusted by seven hundred sixty-one (761) days.

A second "Request for Recalculation of Patent Term Adjustment in View of *Wyeth*" was filed May 18, 2010.

A party is not entitled to have the Office recalculate the patent term adjustment twice by filing "Request for Recalculation of Patent Term Adjustment in View of *Wyeth*" forms on two different dates. However, even if a party had such a right, the instant request would be improper because the request was filed more than 180 days after the issue date of the patent.

The purpose of the instant request is unclear since rendering an automated decision in response to the instant request would simply result in a decision almost identical to the April 20, 2010 decision. It is possible the filing of the request is an attempt to seek reconsideration of the patent

term adjustment calculation set forth on the April 20, 2010. However, one cannot obtain reconsideration of the decision simply by filing a second "Request for Recalculation of Patent Term Adjustment in View of *Wyeth*" form. The procedure to be used when a party wishes to request reconsideration is set forth on the April 20, 2010 decision, which states,

> [If a request for reconsideration is filed,] Patentee should use document code PET.OP if electronically filing [the request]. 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).

The decision also stated, with emphasis added,

> If patentee does not timely file a request for reconsideration ... 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.

The instant request was filed electronically using the document code PET.PTA.RCAL, did not include the information required by 37 CFR 1.705(b)(2), and did not include the fee required by 37 CFR 1.18(e). Therefore, the Office will issue a certificate of correction setting forth a PTA determination of 761 days.

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 **seven hundred sixty-one (761)** days.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO.	:	7,603,097 B2
APPLICATION NO.	:	11/323,816
DATED	:	October 13, 2009
INVENTOR(S)	:	Stephen P. Leblanc et al.

DRAFT

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the Title page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 608 days.

Delete the phrase "by 608 days" and insert -- by 761 days--

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SEP 17 2010

OFFICE OF PETITIONS

GOODWIN PROCTER LLP
ATTN: PATENT ADMINISTRATOR
135 COMMONWEALTH DRIVE
MENLO PARK CA 94025-1105

In re Application of	:	
Deshmukh et al.	:	
Application No. 11/324,001	:	ON PETITION
Filed: December 29, 2005	:	
Attorney Docket No. PEL-2808	:	

This is a decision on the request under 37 CFR 1.48(a), filed August 30, 2010, to amend the inventive entity by the addition of Dominique M. Freeman.

The petition is **GRANTED**.

If the inventive entity is set forth in error in an executed § 1.63 oath or declaration in a nonprovisional application, and such error arose without any deceptive intention on the part of the person named as an inventor in error or on the part of the person who through error was not named as an inventor, the inventorship of the nonprovisional application may be amended to name only the actual inventor or inventors.

37 CFR 1.48(a) requires that an amendment to the named inventive entity be accompanied by:

(1) A request to correct the inventorship that sets forth the desired inventorship change;

(2) A statement from each person being added as an inventor and from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part;

(3) An oath or declaration by the actual inventor or inventors as required by § 1.63 or as permitted by §§ 1.42, 1.43 or § 1.47;

(4) The processing fee set forth in § 1.17(i); and

(5) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see § 3.73(b).

The instant petition has met all of the above requirements. Accordingly, Dominique M. Freeman has been added as an inventor in the instant application.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

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135 COMMONWEALTH DRIVE
MENLO PARK CA 94025-1105

MAILED

SEP 22 2010

OFFICE OF PETITIONS

In re Application of	:	
Deshmukh et al.	:	
Application No. 11/324,001	:	DECISION ON PETITION
Filed: December 29, 2005	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. PEL-2808	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed August 30, 2010, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional Application No. 10/127,395, filed April 19, 2002.

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(s), unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant petition does not comply with item (1) above.

The amendment submitted concurrently with the instant petition as drafted is unacceptable and, therefore, is not considered a proper reference under 36 CFR 1.78(a)(2)(i). In this regard, the amendment is physically part of the instant petition and, as such, does not comply with 37 CFR 1.121, 1.52, or 1.4(c). Note that 37 CFR 1.121 states that amendments are made by filing a paper, in compliance with 1.52, directing that specified amendments be made. The pertinent section of 37 CFR 1.52 states that the claim (in this case, the claim for priority) must commence on a separate physical sheet. 37 CF 1.4(c) states that each distinct subject, inquiry or order must be contained in a separate paper since different matters may be considered by different branches of the United States Patent and Trademark Office.

In view of the above, the amendment to add a priority claim to the first line of the specification, which is physically embedded in the instant petition, is not acceptable. Accordingly, a substitute amendment in compliance with the aforementioned rules, along with a renewed petition under 37 CFR 1.78(a)(3), must be submitted.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Window located at:
U.S. Patent and Trademark Office
Customer Service Window Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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GOODWIN PROCTER LLP
ATTN: PATENT ADMINISTRATOR
135 COMMONWEALTH DRIVE
MENLO PARK CA 94025-1105

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NOV 09 2010

OFFICE OF PETITIONS

In re Application of	:	
Deshmukh et al.	:	
Application No. 11/324,001	:	DECISION GRANTING PETITION
Filed: December 29, 2005	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. PEL-2808	:	

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed October 27, 2010, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional Application No. 10/127,395, filed April 19, 2002, as set forth in the amendment filed concurrently with the instant petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i).of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional application is submitted after expiration of the period specified by 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the above-noted, prior-filed nonprovisional application has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been previously submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the above-noted, prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed application. In order for the instant application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3282.

This matter is being referred to Technology Center Art Unit 3736 for appropriate action on the amendment filed October 27, 2010, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional application.

Liana Walsh
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/324,001	12/29/2005	3736	1890	PEL-2808	73	3

CONFIRMATION NO. 1188

CORRECTED FILING RECEIPT

77845
Goodwin Procter LLP
Attn: Patent Administrator
135 Commonwealth Drive
Menlo Park, CA 94025-1105

OC000000044395655

Date Mailed: 11/08/2010

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Ajay Deshmukh, San Francisco, CA;
Dominique M. Freeman, La Honda, CA;

Power of Attorney: The patent practitioners associated with Customer Number 77845

Domestic Priority data as claimed by applicant

This application is a CIP of 10/127,395 04/19/2002 PAT 7,025,774
and claims benefit of 60/640,839 12/30/2004

Foreign Applications

If Required, Foreign Filing License Granted: 02/10/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/324,001**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

Method and apparatus for storing an analyte sampling and measurement device

Preliminary Class

600

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).

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Title 37, Code of Federal Regulations, 5.11 & 5.15

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This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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BULL HN INFORMATION SYSTEMS INC.
ATTN: RUSSELL W. GUENTHNER
13430 N. BLACK CANYON HIGHWAY
PHOENIX AZ 85029-1348

MAILED

AUG 04 2010

OFFICE OF PETITIONS

In re Application of	:	
Guenthner et al.	:	
Application No. 11/324,052	:	DECISION ON PETITION
Filed: December 29, 2005	:	
Attorney Docket No. 53003242	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 6, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before June 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. A Notice of Abandonment was mailed July 1, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,510.00 and publication fee of $300.00; (2) the petition fee of $1,620.00; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

This application is being referred to the Office of Data Management for processing into a patent.

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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VALEO RADAR SYSTEMS, INC.
c/o DALY, CROWLEY, MOFFORD AND DURKEE, LLP
354A TURNPIKE STREET
SUITE 301-A
CANTON MA 02021-2714

MAILED

JAN 25 2011

OFFICE OF PETITIONS

In re Patent No. 7,379,018 :
Issue Date: May 27, 2008 :
Application No. 11/324,073 : DECISION GRANTING PETITION
Filed: December 30, 2005 : UNDER 37 CFR 1.137(b)
Attorney Docket No. VRS-015PUS :

This is a decision on the petition, filed November 15, 2010, which is being treated as a petition under 37 CFR 1.137(b) to accept an unintentionally delayed notification to the U.S. Patent and Trademark Office (USPTO) of the filing of an application in a foreign country or under a multinational treaty that requires publication of applications eighteen-months after filing. *See* 37 CFR 1.137(f).

The petition under 37 CFR 1.137(b) is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on December 28, 2006. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country. Therefore, pursuant to the provisions of 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c), petitioner failed to timely notify the USPTO of the filing of a counterpart application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(b) to accept an unintentionally delayed notification to the USPTO of the filing of a counterpart application in an eighteen-month publication country must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days as provided by 35 U.S.C. § 122(b)(2)(B)(iii) is accepted as having been unintentionally delayed.

This application matured into Patent No. 7,379,018 on May 27, 2008. Therefore, no further action being required, this patented file is being forwarded 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

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PO BOX 747
FALLS CHURCH VA 22040-0747

MAILED

DEC 21 2010

OFFICE OF PETITIONS

In re Application of	:	
Nickolai ALEXANDROV	:	
Application No. 11/324,098	:	DECISION ON PETITION
Filed: December 29, 2005	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 2750-1669PUS1	:	

This is a decision on the petition under 37 CFR 1.78(a)(6), filed October 12, 2010, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of priority to a prior-filed provisional application.

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.

This pending nonprovisional application was filed on, within twelve months of the filing date of the prior-filed provisional applications, Application No. 60/583,621; 60/584,829 and 60/584,800, which were filed on June 30, 2004, and for which priority is claimed. A reference to the prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title.

However, the amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed application. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 119(e) after the filing date of the application, the amendment would

not be proper. When a benefit claim under 35 U.S.C. § 119(e) is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

Accordingly, before the petition under 37 CFR 1.78(a)(6) can be granted, a renewed petition under 37 CFR 1.78(a)(6) and either an Application Data Sheet or a substitute amendment (complying with 37 CFR 1.121 and 37 CFR 1.76(b)(5)) deleting the incorporation by reference statement, are required.

As authorized, the $1,410.00 fee required by 37 CFR 1.78(a)(6)(ii) has been charged to petitioner's Deposit Account No. 02-2448.

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 Michelle R. Eason at (571) 272-4231.

/Thurman K. Page/
Petitions Examiner
Office of Petitions

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FEB 15 2011
OFFICE OF PETITIONS

In re Application of	:	
Nickolai ALEXANDROV et al.	:	
Application No. 11/324,098	:	DECISION ON PETITION
Filed: December 29, 2005	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 2750-1669PUS1	:	

This is a decision on the renewed petition under 37 CFR 1.78(a)(6), filed January 21, 2011, 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 amendment.

The petition is **GRANTED**.

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). Further, the nonprovisional application claiming the benefit of the prior-filed provisional application must have been filed within twelve months of the filing date of the prior-filed provisional application.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 119(e) is accepted as being unintentionally delayed.

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 Michelle R. Eason at (571) 272-4231. 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 the Office of Data Management.

/Thurman K. Page/
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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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
11/324,098	12/29/2005	1638	3582	2750-1669PUS1	25	4

CONFIRMATION NO. 5620

CORRECTED FILING RECEIPT

2292
BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

OC000000046000230

Date Mailed: 02/15/2011

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Nickolai Alexandrov, Thousand Oaks, CA;
Vyacheslav Brover, Simi Valley, CA;
Peter Mascia, Thousand Oaks, CA;
Kenneth A. Feldmann, Newbury Park, CA;
Cory Christensen, Simi Valley, CA;
Greg Nadzan, Woodland Hills, CA;

Assignment For Published Patent Application

CERES, INC., Thousand Oaks, CA

Power of Attorney: The patent practitioners associated with Customer Number 02292

Domestic Priority data as claimed by applicant

This application is a CIP of 11/172,740 06/30/2005 PAT 7,396,979
which claims benefit of 60/583,621 06/30/2004
and claims benefit of 60/584,800 06/30/2004

Foreign Applications (You may be eligible to benefit from the **Patent Prosecution Highway** program at the USPTO. Please see http://www.uspto.gov for more information.)

If Required, Foreign Filing License Granted: 02/09/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/324,098**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

NUCLEOTIDE SEQUENCES AND CORRESPONDING POLYPEPTIDES CONFERRING MODULATED PLANT GROWTH RATE AND BIOMASS IN PLANTS

Preliminary Class

800

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).

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Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

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The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

-Paper No.: _____

DATE : March 14, 2011

TO SPE OF : ART UNIT 1638

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/324098 patent no 7884261

CofC mailroom date: 3-1-11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Magdalene Talley

Certificates of Correction Branch

571-272-0423

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

X **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: None

/Vinod Kumar/ 3/14/11

Primary Examiner (Art Unit 1638)

Johnson, Antonio

Attached please find the correct claims that should have issued in 7,734,424. They are identical to the examiner's amendment of 6/15/10 - except that they have been renumbered dependencies corrected.

Thank you for your help in this matter,

Marjie Moran
SPE, AU 1631

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

Page 1 of 13

PATENT NO. : 7,734,424 B1

APPLICATION NO. : 11/324,102

DATED : June 8, 2010

INVENTOR(S) : Peter K. Rogan

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Column 309, line 24 – Column 310, line 67, delete claims 1-16 and substitute therefore the attached claims 1-16.

Claim 1. A method to identify and produce a single copy sequence from a target reference complete genome sequence by successive division of the target reference genome sequence into subintervals and comparison of the subintervals to the target reference sequence, said method comprising:

(A) determining a count of the number of times a subsequence of a first screened sequence occurs in the target reference genome sequence, said screened sequence is at least one subinterval of the target reference genome sequence obtained by division of the target reference genome sequence, wherein

(1) the target reference genome sequence comprises the first screened sequence,

(2) the first screened sequence comprises at least two subsequences, and

(3) a single copy interval of the first screened sequence is identified as

(i) a subsequence of the first screened sequence with a single subsequence occurrence in the target reference genome sequence, wherein an occurrence is defined by at least about 50 consecutive nucleotides of the subsequence with (i) at least about 60% homology to the target reference sequence; (ii) at least about 70% homology to the target reference sequence; or (iii) at least about 80% homology to the target reference sequence, or

(ii) a group of contiguous subsequences of the first screened sequence, each member having a single subsequence occurrence in the target reference genome sequence, wherein an occurrence is defined by at least about 50 consecutive nucleotides of the subsequences with (i) at least about 60% homology to the target reference

sequence; (ii) at
least about 70% homology to the target reference sequence;
or (iii) at least about 80% homology to the target reference
sequence;

(B) determining a count of the number of times a subsequence of a second
screened sequence occurs in the target reference genome sequence, said
screened sequence being at least one subinterval of the target reference
genome sequence, wherein

(1) the second screened sequence comprises a single copy interval of
the first screened sequence;

(2) the second screened sequence overlaps the single copy interval of
the first screened sequence;

(3) the subsequences of the second screened sequence are either (i) consecutive non-overlapping subintervals of the second screened sequence or (ii) overlapping non-identical subintervals of the second screened sequence; and

(4) a single copy interval of the second screened sequence is identified
as

(i) a subsequence of the second screened sequence with a single subsequence occurrence in
the target reference genome sequence, wherein an occurrence is defined by at least about 50 consecutive nucleotides of the subsequence with (i) at least about 60% homology to the target reference sequence; (ii) at least about 70% homology to the target reference sequence; or (iii) at least about 80% homology to the target reference sequence, or

(ii) a group of contiguous subsequences of the second screened sequence, each member having a single subsequence occurrence in the target reference genome
sequence, wherein an occurrence is defined by at least
about 50 consecutive nucleotides of the subsequences with
(i) at least about 60% homology to the target

reference
sequence; (ii) at least about 70% homology to the target
reference sequence; or (iii) at least about 80% homology to
the target reference sequence;

(C) identifying a single copy interval as a single copy sequence of the target reference sequence suitable for use as a single copy hybridization probe; and
(D) producing the single copy sequence as a nucleic acid molecule.

Claim 2. The method of claim 1 further comprising a step of determining a count of the number of times a subsequence of a third screened sequence occurs in the target reference sequence, wherein

(A) the third screened sequence comprises a single copy interval of the second screened sequence;
(B) the third screened sequence overlaps the single copy interval of the second screened sequence;
(C) the subsequences of the third screened sequence are either (i) consecutive non-overlapping subintervals or (ii) overlapping non-identical subintervals; and
(D) a single copy interval of the third screened sequence is identified as
  (i) a subsequence of the third screened sequence with a single subsequence occurrence in the target reference sequence, wherein
  an occurrence is defined by at least about 50 consecutive nucleotides of the subsequence with (i) at least about 60% homology to the target reference sequence; (ii) at least about 70%
  homology to the target reference sequence; or (iii) at least about
  80% homology to the target reference sequence, or
  (ii) a group of contiguous subsequences of the third screened sequence, each member having a single subsequence occurrence
  in the target reference sequence, wherein an occurrence is defined
  by at least about 50 consecutive nucleotides of the subsequences
  with (i) at least about 60% homology to the target reference sequence; (ii) at least about 70% homology to the target reference
  sequence; or (iii) at least about 80% homology to the target reference sequence.

Claim 3. The method of claim 2 further comprising a step of determining a count of the number of times a subsequence of a fourth screened sequence occurs in the target reference sequence, wherein

(A) the fourth screened sequence comprises a single copy interval of the third screened sequence;

(B) the fourth screened sequence overlaps the single copy interval of the third screened sequence;

(C) the subsequences of the fourth screened sequence are either (i) consecutive non-overlapping subintervals or (ii) overlapping non-identical subintervals; and

(D) a single copy interval of the fourth screened sequence is identified as

(i) a subsequence of the fourth screened sequence with a single subsequence occurrence in the target reference sequence, wherein an occurrence is defined by at least about 50 consecutive nucleotides of the subsequence with (i) at least about 60% homology to the target reference sequence; (ii) at least about 70% homology to the target reference sequence; or (iii) at least about 80% homology to the target reference sequence, or

(ii) a group of contiguous subsequences of the fourth screened sequence, each member having a single subsequence occurrence in the target reference sequence, wherein an occurrence is defined by at least about 50 consecutive nucleotides of the subsequences with (i) at least about 60% homology to the target reference sequence; (ii) at least about 70% homology to the target reference sequence; or (iii) at least about 80% homology to the target reference sequence.

Claim 4. The method of claim 3 wherein a subsequence is (i) at least about 100 consecutive non-overlapping nucleotides; (ii) at least about 200 consecutive non-overlapping nucleotides; (iii) at least about 400 consecutive non-overlapping nucleotides; (iv) at least about 600 consecutive non-overlapping nucleotides; (v) at least about 800 consecutive non-overlapping nucleotides; or (vi) at least about

1000 consecutive non-overlapping nucleotides.

Claim 5. The method of claim 3 wherein the second, third, or fourth screened sequence comprises (i) a centromeric end that overlaps the single copy interval of the first, second, or third screened sequence, respectively; (ii) a telomeric end that overlaps the single copy interval of the first, second, or third screened sequence, respectively; or (iii) a centromeric and telomeric end that both overlap the single copy interval of the first, second, or third screened sequence, respectively.

Claim 6. The method of claim 5 further comprising a step of determining whether an extended test sequence extends in the direction toward the centromere of the chromosomal arm containing the subsequence.

Claim 7. The method of claim 1 further comprising a step of identifying a subsequence of the first or second screened sequences with at least two occurrences in the target reference sequence as a subsequence containing a repetitive element wherein the single copy interval is located adjacent to the repetitive element.

Claim 8. The method of claim 7 further comprising a step of identifying a second, distinct subsequence of the first or second screened sequences with at least two occurrences in the target reference sequence as a subsequence containing a different repetitive element, wherein the single copy interval is located between the first and the second subsequences containing the differing repetitive elements.

Claim 9. The method of claim 7 further comprising a step of (i) storing a sequence of a single copy sequence or (ii) storing a subsequence of a screened sequence that displays more than one match to the target reference sequence or (ii) storing a sequence of a screened subsequence containing a repetitive element.

Claim 10. The method of claim 1 wherein the target reference sequence is about 100,000 nucleotides to about 400,000 nucleotides.

Claim 11. The method of claim 10 wherein the target reference sequence is a sequenced genome of a human.

Claim 12. The method of claim 1 wherein the target reference sequence is a sequenced genome of an organism.

Claim 13. The method of claim 1 wherein the overlapping subintervals of the screened sequence are displaced by at least about 20 nucleotides from adjacent subintervals.

Claim 14. A method to prepare a single copy hybridization probe from a target reference complete genome sequence by successive division of the target reference genome sequence into subintervals and comparison of the subintervals to the target reference sequence, said method comprising:

(A) determining a count of the number of times a subsequence of a first screened sequence occurs in the target reference genome sequence, said
screened sequence is at least one subinterval of the target reference
genome sequence obtained by division of the target reference genome
sequence, wherein
(1) the target reference genome sequence comprises the first screened sequence,
(2) the first screened sequence comprises at least two subsequences,
and
(3) a single copy interval of the first screened sequence is identified as
(i) a subsequence of the first screened sequence with a single subsequence
occurrence in the target reference genome sequence, wherein an occurrence is defined by at least about 50 consecutive nucleotides of the subsequence with (i) at least about 60% homology to the target reference sequence; (ii) at least about 70% homology to the target reference sequence; or (iii) at least about 80% homology to the target reference sequence, or
(ii) a group of contiguous subsequences of the first screened
sequence, each member having a single subsequence
occurrence in the target reference genome sequence, wherein an occurrence is defined by at least about 50 consecutive nucleotides of the subsequences with (i) at least
about 60% homology to the target reference sequence; (ii) at
least about 70% homology to the target reference sequence;
or (iii) at least about 80% homology to the target reference
sequence;

(B) determining a count of the number of times a subsequence of a second

screened sequence occurs in the target reference genome sequence, said
screened sequence is at least one subinterval of the target reference
genome sequence, wherein
(1) the second screened sequence comprises a single copy interval of
the first screened sequence;

(2) the second screened sequence overlaps the single copy interval of
the first screened sequence;
(3) the subsequences of the second screened sequence are either (i) consecutive non-overlapping
subintervals of the second screened sequence or (ii) overlapping non-identical subintervals of the second screened sequence; and
(4) a single copy interval of the second screened sequence is identified
as
(i) a subsequence of the second screened sequence with a
single subsequence occurrence in the target reference
genome sequence, wherein an occurrence is defined by at
least about 50 consecutive nucleotides of the subsequence
with (i) at least about 60% homology to the target reference
sequence; (ii) at least about 70% homology to the target
reference sequence; or (iii) at least about 80% homology to
the target reference sequence, or
(ii) a group of contiguous subsequences of the second screened sequence, each member having a single subsequence occurrence in the target reference genome
sequence, wherein an occurrence is defined by at least
about 50 consecutive nucleotides of the subsequences with
(i) at least about 60% homology to the target

reference
sequence; (ii) at least about 70% homology to the target
reference sequence; or (iii) at least about 80% homology to
the target reference sequence;

(C) identifying a single copy interval as a single copy sequence of the target reference sequence suitable for
use as a single copy hybridization probe; and

(D) preparing a single copy hybridization probe comprising a single copy sequence.

Claim 15. One or more tangible computer-readable storage media having computer- executable components for identifying a single copy sequence in a target reference complete genome sequence, said components comprising:

(A) a first genome comparison component for determining a count of the
number of times a subsequence of a first screened sequence occurs in
the target reference genome sequence, said screened sequence is at
least one subinterval of the target reference genome sequence obtained
by division of the target reference genome sequence, wherein

(1) the target reference genome sequence comprises the first screened sequence,

(2) the first screened sequence comprises at least two subsequences, and

(3) a single copy interval of the first screened sequence is identified as

(i) a subsequence of the first screened sequence with a single
subsequence occurrence in the target reference genome
sequence, wherein an occurrence is defined by at least
about 50 consecutive nucleotides of the subsequence with
(i) at least about 60% homology to the target reference
sequence; (ii) at least about 70% homology to the target
reference sequence; or (iii) at least about 80%

homology to
the target reference sequence, or
(ii) a group of contiguous subsequences of the first screened
sequence, each member having a single subsequence
occurrence in the target reference genome sequence, wherein an occurrence is defined by at least about 50 consecutive nucleotides of the subsequences with (i) at least
about 60% homology to the target reference sequence; (ii) at
least about 70% homology to the target reference sequence;
or (iii) at least about 80% homology to the target reference
sequence;

(B) a second genome comparison component for determining a count of the
number of times a subsequence of a second screened sequence occurs in
the target reference genome sequence, said screened sequence is at
least one subinterval of the target reference genome sequence, wherein
(1) the second screened sequence comprises a single copy interval of
the first screened sequence;
(2) the second screened sequence overlaps the single copy interval of
the first screened sequence;
(3) the subsequences of the first screened sequence are either (i) consecutive non-overlapping
subintervals of the second screened sequence or (ii) overlapping non-identical subintervals of the second screened sequence; and
(4) a single copy interval of the second screened sequence is identified
as
(i) a subsequence of the second screened sequence with a
single subsequence occurrence in the target reference
genome sequence, wherein an occurrence is defined by at
least about 50 consecutive nucleotides of the

subsequence
with (i) at least about 60% homology to the target reference
sequence; (ii) at least about 70% homology to the target
reference sequence; or (iii) at least about 80% homology to
the target reference sequence, or

(ii) a group of contiguous subsequences of the second screened sequence, each member having a single subsequence occurrence in the target reference genome
sequence, wherein an occurrence is defined by at least
about 50 consecutive nucleotides of the subsequences with
(i) at least about 60% homology to the target reference
sequence; (ii) at least about 70% homology to the target
reference sequence; or (iii) at least about 80% homology to
the target reference sequence; and

(C) a subsequence component for identifying a single copy interval as a single
copy sequence of the target reference sequence suitable for use as a
single copy hybridization probe;

and wherein the results achieved from the computer-executable components of the computer-readable storage media are outputted in a user readable format.

Claim 16. A computerized system for identifying a single copy sequence in a target reference complete genome sequence, said computerized system comprising a computer-readable storage media, said computer-readable storage media comprising:

(A) means for determining a count of the number of times a subsequence of a
first screened sequence occurs in the target reference genome sequence,
said screened sequence is at least one subinterval of the target reference
genome sequence obtained by division of the target reference genome
sequence, wherein

(1) the target reference genome sequence comprises the first

screened sequence,
(2) the first screened sequence comprises at least two subsequences, and
(3) a single copy interval of the first screened sequence is identified as

(i) a subsequence of the first screened sequence with a single subsequence occurrence in the target reference genome sequence, wherein an occurrence is defined by at least about 50 consecutive nucleotides of the subsequence with (i) at least about 60% homology to the target reference sequence; (ii) at least about 70% homology to the target reference sequence; or (iii) at least about 80% homology to the target reference sequence, or
(ii) a group of contiguous subsequences of the first screened sequence, each member having a single subsequence occurrence in the target reference genome sequence, wherein an occurrence is defined by at least about 50 consecutive nucleotides of the subsequences with (i) at least about 60% homology to the target reference sequence; (ii) at least about 70% homology to the target reference sequence; or (iii) at least about 80% homology to the target reference sequence;

(B) means for determining a count of the number of times a subsequence of a second screened sequence occurs in the target reference genome sequence, said screened sequence is at least one subinterval of the target reference genome sequence, wherein
(1) the second screened sequence comprises a single copy interval of

the first screened sequence;

(2) the second screened sequence overlaps the single copy interval of the first screened sequence;

(3) the subsequences of the first screened sequence are either (i) consecutive non-overlapping subintervals of the second screened sequence or (ii) overlapping non-identical subintervals of the second screened sequence; and

(4) a single copy interval of the second screened sequence is identified as

(i) a subsequence of the second screened sequence with a single subsequence occurrence in the target reference genome sequence, wherein an occurrence is defined by at least about 50 consecutive nucleotides of the subsequence with (i) at least about 60% homology to the target reference sequence; (ii) at least about 70% homology to the target reference sequence; or (iii) at least about 80% homology to the target reference sequence, or

(ii) a group of contiguous subsequences of the second screened sequence, each member having a single subsequence occurrence in the target reference genome sequence, wherein an occurrence is defined by at least about 50 consecutive nucleotides of the subsequences with (i) at least about 60% homology to the target reference sequence; (ii) at least about 70% homology to the target reference sequence; or (iii) at least about 80% homology to the target reference sequence; and

(C) means for identifying a single copy interval as a single copy sequence of the target reference genome sequence suitable for use as a single copy hybridization probe;

and wherein the single copy sequence is outputted in a user readable format.

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/324,160	12/30/2005	Salim G. Kara	61135/P004CP1CP1C3/106000	6162

29053 7590 03/07/2011
FULBRIGHT & JAWORSKI L.L.P
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SUITE 2800
DALLAS, TX 75201-2784

EXAMINER
WU, RUTAO

ART UNIT	PAPER NUMBER
3628	

NOTIFICATION DATE	DELIVERY MODE
03/07/2011	ELECTRONIC

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Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

doipdocket@fulbright.com

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MAR 0 4 2011

FULBRIGHT & JAWORSKI L.L.P
2200 ROSS AVENUE
SUITE 2800
DALLAS TX 75201-2784

In re Application of	:	
Salim KARA	:	DECISION ON PETITION
Application No.: 11/324,160	:	TO WITHDRAW THE
Filed: December 30, 2005	:	RESTRICTION REQUIREMENT
For: SYSTEM AND METHOD FOR PRINTING	:	UNDER 37 CFR 1.181
MULTIPLE POSTAGE INDICIA	:	

This is in response to applicant's petition under 37 CFR 1.181 filed June 30, 2010 requesting withdrawal of the restriction requirements made in the Office action dated November 30, 2009.

The petition is **DENIED**.

Applicant argues that both Groups should be rejoined and examined based upon 1) the examiner's alleged failure to properly establish that the claims of groups I and II are independent and distinct; and 2) the examiner's alleged failure to demonstrate serious burden in examining all Groups together. Petitioner remarks that: a) "[t]he scope of the claims in Group I do indeed overlap with that of Group II; and b) "given the same classification of the claims of Groups I and II, there appears to be no SERIOUS BURDEN on the continued examination of the claims together, particularly considering the large degree of overlap in limitations." See pages 6-7 of the instant petition.

A review of the record reveals that a non-final was mailed on June 9, 2009 in which original claims 36-57 were rejected on art. In a reply filed on September 9, 2009 applicant amended claims 36, 42-46, 48, 52-53, 55-57, and added new claims 58-59. The restriction requirement was mailed on November 30, 2009 in which the examiner required an election between group I of claims 36-54 directs to generating and printing postage data classified in class 705, subclass 401; and group II of claims 55-59 directs to generating and printing postage data classified in class 705, subclass 410.

The rationales for restriction between Groups I and II were based upon distinct subcombinations usable together in a single combination. The examiner determined that the subcombinations, as claimed, did not overlap in scope and were not obvious variants of each other. The examiner took the position that at least Group II (identified as "subcombination II") has a separate utility "validity constraints for the postage indicia". The examiner also determined that serious search

and examination burden would exist if the restriction was not required. The examiner pointed, specifically, to the inventions' separate status in the art in view of their different classifications as justification of this determination. See, page 3 of the restriction requirement.

Applicant elected Group I (claims 36-54) with traverse in a reply dated December 28, 2009. Applicant traversed the restriction requirement on the grounds that the examiner has not shown that the inventions are independent and distinct, failed to show serious burden if restriction is not required. Applicant also argues that the subcombinations overlap in scope as evidenced by the multiple claimed features that are common to many claims such as "secure storing on a portable storage device," "network connection coupling the portable storage device to a remote site for incrementing," "printing postage indicia" and "decrementing" limitations that are presented in both claims 36 and 55.

In the final Office action mailed March 30, 2010, the examiner held the restriction requirement to be final and argued that "[Applicant's traversal] is not found persuasive because while some limitations of claim 55 overlap with claim 36, claim 55 recites the limitation that the postage indicia includes validity constrains and at least some of the encrypted information for an item to be mailed, wherein the postage indicia is valid only if the validity constraints are satisfied. This requirement of validity constraints satisfaction is not present in any of the claims in group I. Therefore, Groups I and II are independent and distinct and would pose a serious burden on the examiner if the restriction is not required." See page 2 of the Office action. This petition is timely filed.

> MPEP 806.05(d) states that *"Two or more claimed subcombinations, disclosed as usable together in a single combination, and which can be shown to be separately usable, are usually distinct from each other."*

Regarding applicant's argument with respect to showing the inventions are independent and distinct, it is noted that since the examiner shows a separate utility for Group II as "validity constraints for the postage indicia", the examiner has clearly showed distinctness in accordance with MPEP 806.05(d). Accordingly, applicant's argument with respect to distinct inventions is not viewed as being persuasive.

Regarding applicant's argument the examiner ignores portions of the Groups with overlapping scope, it is noted that applicant has provided "overlapping" claim terminology at pages 3-5. However, the scope of a claim should only be determined by the claim as a whole and not by individual limitations within a claim. While some limitations of claim 55 are similar to those in claim 36, claim 55 recites the limitation that the postage indicia includes validity constrains and at least some of the encrypted information for an item to be mailed, wherein the postage indicia is valid only of the validity constraints are satisfied. This constraint requirement is not present in any of the claims in Group I. Therefore the scope of claim 55 is different from the scope of claim 36. The scope of claim 55 is validity of postage indicia based on constraints satisfaction. Accordingly, such argument with respect to overlapping of scope is not viewed as being persuasive.

> MPEP 803 states that *"serious burden on the examiner may be prima facie shown if the examiner shows by appropriate explanation of separate classification, or separate status in the art, or a different field of search as defined in MPEP § 808.02."*

Applicant also argues that the Office action did not establish the *Prima facie* case that there would be a serious burden on the examiner if restriction is not required. As noted above, claims 36 and 55 are of different scope; specifically claim 55 recites limitations that are not present in claim 36. By showing that Group I classified in class 705, subclass 401; and Group II is separately classified in class 705, subclass 410, the examiner has shown separate classification, and therefore a separate field of search would exist for each Group. As such, the examiner has demonstrated serious burden of search in accordance with MPEP 803.

Inasmuch as none of the arguments advanced by petitioner have been viewed as being persuasive in showing that the examiner erred in requiring election between Groups I and II, the final restriction requirement is maintained. Examination of such Group I claims will continue, and Group II claims remains withdrawn from prosecution.

Any question concerning this decision should be referred to Quality Assurance Specialist Lanna Mai on (571) 272-6867.

Wynn Coggins, Director
Patent Technology Center 3600
(571) 272-5350

lm: 3/1/2011

LM

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OFFICE OF PETITIONS

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

In re Application of John Julian Henry Application No. 11/324,238 Filed: January 4, 2006 Attorney Docket No. 1817-0167PUS1	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 26, 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 James M. Stattery on behalf of all attorneys of record who are associated with customer No. 02292. All attorneys/agents associated with the Customer Number 02292 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

There are no pending Office actions at the present time.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

cc: JOHN HENRY JULIAN
HENRY STREET, ROSCOMMON
ROSCOMMON, IRELAND

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/324,238	01/04/2006	John Julian Henry	1817-0167PUS1

CONFIRMATION NO. 5087

POWER OF ATTORNEY NOTICE

2292
BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

OC000000043733760

Date Mailed: 09/27/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/26/2010.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/amwise/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/324,495	01/03/2006	Hang-Ting Lue	MXIC 1809-1	5682

46353 7590 06/08/2011
MACRONIX
C/O HAYNES BEFFEL & WOLFELD LLP
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EXAMINER
HSIEH, HSIN YI

ART UNIT	PAPER NUMBER
2811	

MAIL DATE	DELIVERY MODE
06/08/2011	PAPER

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/324,495	01/03/2006	Hang-Ting Lue	MXIC 1809-1	5682

46353 7590 06/08/2011
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EXAMINER
HSIEH, HSIN YI

ART UNIT	PAPER NUMBER
2811	

MAIL DATE	DELIVERY MODE
06/08/2011	PAPER

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HAYNES BEFFEL & WOLFELD LLP
PO BOX 366
HALF MOON BAY, CA 94019

In re Application of Hang-Ting Lue et al.	:	
Appl. No.: 11/324,495	:	**PETITIONS FOR ENTRY**
Filed: January 3, 2006	:	**OF AFTER FINAL**
For: NON-VOLATILE MEMORY CELLS, MEMORY	:	**AMENDMENT AND**
ARRAYS INCLUDING THE SAME AND	:	**WITHDRAWAL OF**
METHODS OF OPERATING CELLS AND	:	**OBJECTION**
ARRAYS	:	*37 CFR 1.181*
	:	

This decision is on the following petitions:

1) the petition filed December 1, 2008 for entry of an amendment after final, and
2) the petition filed December 15, 2010 to withdraw an objection to the specification.

1) The petition filed December 1, 2008 is **DISMISSED AS MOOT**.
2) The petition filed December 15, 2010 is **GRANTED**.

1) A review of the record shows applicant filed a Request for Continued Examination (RCE) on June 16, 2009 which canceled claims 1-29. Since the petition filed December 1, 2008 requested the entry of an Amendment After Final filed October 7, 2008, which addressed claims 1-29, the petition is moot.

2) A review of the record shows that the amendment to the specification paragraph [0162] filed on June 16, 2009 is supported by applicant's priority document. Therefore, it does not introduce new matter to the specification and the objection included in the Final Office Action mailed March 31, 2010 will be withdrawn. No new Office Action will be mailed. The Reply Brief filed February 11, 2011 will be considered and the application returned to the Board of Appeals.

Inquiries concerning this decision should be directed to Lynne Gurley, Supervisory Patent Examiner, at (571) 272-1670.

Joseph Thomas (for John Cabeca)

John Cabeca, TC Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/324,557	01/03/2006	Andreas Girgensohn	046601-5211US	7311

24341 7590 09/20/2011
MORGAN, LEWIS & BOCKIUS, LLP. (PA)
2 PALO ALTO SQUARE
3000 EL CAMINO REAL, SUITE 700
PALO ALTO, CA 94306

EXAMINER
VILLECCO, JOHN M

ART UNIT	PAPER NUMBER
2622	

NOTIFICATION DATE	DELIVERY MODE
09/20/2011	ELECTRONIC

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September 18, 2011

MORGAN, LEWIS & BOCKIUS, LLP. (PA)
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3000 EL CAMINO REAL, SUITE 700
PALO ALTO CA 94306

In re Application of	:	
Andreas Girgensohn et al.	:	**DECISION ON PETITION**
Application No. 11324557	:	
Filed: 01/03/2006	:	
Attorney Docket No. **046601-5211US**	:	

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 3, 2006.

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
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November 21, 2011

MORGAN, LEWIS & BOCKIUS, LLP. (PA)
2 PALO ALTO SQUARE
3000 EL CAMINO REAL, SUITE 700
PALO ALTO CA 94306

In re Application of	:	
Andreas Girgensohn et al.	:	**DECISION ON PETITION**
Application No. 11324557	:	
Filed: 01/03/2006	:	***ACCEPTANCE OF COLOR***
Attorney Docket No. **046601-5211US**	:	***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 8, 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

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MAILED
JUL 19 2011
OFFICE OF PETITIONS

ADVANTEDGE LAW GROUP LLC
922 W BAXTER DR
SUITE 100
SOUTH JORDAN UT 84095

In re Patent No. 7,886,291	: DECISION ON
Jones, et al.	: REQUEST FOR RECONSIDERATION
Application No. 11/324,565	: of PATENT TERM ADJUSTMENT
Issue Date: February 8, 2011	: and
Filed: January 3, 2006	: NOTICE OF INTENT TO ISSUE
Attorney Docket No. 4001-0261	: CERTIFICATE OF CORRECTION

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM DETERMINATION", filed March 4, 2011, requesting that the patent term adjustment indicated on the above-identified patent be corrected from one thousand four hundred seven (1407) days to one thousand four hundred seventy-two (1472) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED.**

On February 8, 2011, the instant application matured into U.S. Patent No. 7,886,291 with a patent term adjustment of 1407 days. The Office determined a patent term adjustment of 1407 days based upon 887 days of Office delay pursuant to 37 CFR 1.703(a)(1) and 701 days pursuant to 37 CFR 1.703(b), reduced by 31 days of Applicant delay pursuant to 37 CFR 1.704(b) and 150 days of overlap between "A" and "B" delay.

Patentee is correct that the proper amount of days over 36 months from the filing date of the application until the issue date was not included in the "B" delay period. The over three year period began on January 4, 2009 and ended on February 8, 2011 (the patent issue date), and is 766 days. See 35 U.S.C. 154(b)(1)(B)(i). Therefore, the "B" delay period is 766 days, not 701 days as originally calculated.

In view thereof, the correct number of days of patent term adjustment is **one thousand four hundred seventy-two (1472)** days (887 days of "A" delay and 766 days of "B" delay, reduced by 31 days of Applicant delay and 150 days of overlap).

The application is being forwarded to the Certificate of Corrections Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand four hundred seventy-two (1472) days.**

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

DRAFT CERTIFICATE OF CORRECTION

PATENT : 7,886,291 B2

DATED : **February 8, 2011**

INVENTOR(S) : Jones et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 1407 days.

Delete the phrase "by 1407 days" and insert – by 1472 days--

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: 150077-US-NP	Patent Number: 7,660,311
Filing Date (or 371(b) or (f) Date): January 3, 2006	Issue Date: February 9, 2010
First Named Inventor: Piero Sorrini	
Title: Method and system for enabling connection of a call	

PATENTEE HEREBY REQUESTS RECALCULATION OF THE PATENT TERM ADJUSTMENT (PTA) UNDER 35 USC 154(b) INDICATED ON THE ABOVE-IDENTIFIED PATENT. THE PATENTEE'S SOLE BASIS FOR REQUESTING THE RECALCULATION IS THE USPTO'S PRE-*WYETH* INTERPRETATION OF 35 U.S.C. 154(b)(2)(A).

Note: This form is only for requesting a recalculation of PTA for patents issued before March 2, 2010, if the sole basis for requesting the recalculation is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A). See Instruction Sheet on page 2 for more information.

Patentees are reminded that to preserve the right to review in the United States District Court for the District of Columbia of the USPTO's patent term adjustment determination, a patentee must ensure that he or she also takes the steps required under 35 U.S.C. 154(b)(3) and (b)(4) and 37 CFR 1.705 in a timely manner.

**Wyeth v. Kappos*, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).

Signature /Gregory J. Murgia/	Date August 9, 2010
Name (Print/Typed) Gregory J. Murgia	Registration Number 41,209

***Note**: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required in accordance with 37 CFR 1.33 and 11.18. Please see 37 CFR 1.4(d) for the form of the signature. If necessary, submit multiple forms for more than one signature, see below**.*

☑ *Total of 1 forms are submitted.

The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

Terry W. Kramer, Esq.
Kramer & Amado, P.C.
1725 Duke Street, Suite 240
Alexandria, VA 22314

Mail Date: 08/13/2010

Applicant	: Piero Sorrini	: DECISION ON REQUEST FOR
Patent Number	: 7660311	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/324,612	: 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 **842** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 6/1/2011

TO SPE OF : ART UNIT 3742

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/324749 Patent No.: 7301982 B2

CofC mailroom date: 10/15/2010

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Note: _____

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: These changes do not effect the patentability of the claims.

SPE

AU 3742
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

BANNER & WITCOFF, LTD.
1100 13th STREET, N.W.
SUITE 1200
WASHINGTON DC 20005-4051

MAILED
DEC 20 2010
OFFICE OF PETITIONS

In re Application of	:	
Gat et al.	:	
Application No. 11/324,755	:	DECISION ON PETITION
Filed: January 4, 2006	:	UNDER 37 CFR 1.182
Attorney Docket No.	:	
006681.00071		

This is a decision on the petition under 37 CFR 1.181, filed July 29, 2010. This petition is properly treated as a petition under 37 CFR 1.182, requesting entry of an amendment to the specification to delete reference to earlier-filed applications pursuant to the provisions of 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications. Receipt of the $400 fee for consideration of the petition under 1.182 is acknowledged.

For the reasons stated herein, the petition is **DISMISSED**.

The above-noted application made specific reference to the prior-filed applications; namely, 10/925,937, filed August 26, 2004, and 11/320,805, filed December 30, 2005, prior to abandonment. Petitioner now requests that the abandoned application be amended by deleting reference to the earlier-filed applications.

35 U.S.C. § 120 permits entry of a subsequent amendment to an abandoned application in applications filed prior to November 29, 2000 to include the benefit of an earlier filing date for purposes other than prosecution. *See* Sampson v. Commissioner of Patents and Trademarks, 195 USPQ 136 (DC DC 1976). In a pending

application, no petition is necessary to delete a benefit claim. However, for entry of a subsequent amendment to an abandoned application to delete priority claims, a petition under 37 CFR 1.182 is required.

However, this petition is not accompanied by an amendment to delete reference to the prior-filed applications in the first line of the specification following the title of the invention. The "amendment" appears only in the petition. It is not proper to incorporate an amendment into the petition. It is well established that an amendment (in compliance with §1.121) must be filed in a separate paper.

In view thereof, at this time, the request for entry of an amendment to delete reference to the above-noted, earlier-filed applications is dismissed.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
ATTN: NANCY JOHNSON
SENIOR PETITIONS ATTORNEY

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED

SEP 01 2011

OFFICE OF PETITIONS

BRINKS HOFER GILSON & LIONE/INFINEON
INFINEON
PO BOX 10395
CHICAGO IL 60610

In re Application of	:	
Volker Lehmann et al.	:	
Application No. 11/324,789	:	DECISION ON PETITION
Filed: January 3, 2006	:	
Attorney Docket No. 10808/293 (In 1313WOUS)	:	

This is a decision on the Petition to Remove which is being treated as a petition under 37 CFR 1.59(b), filed August 3, 2010, to expunge information from the above identified application. This is also a decision on the petition to expedite under 37 CFR 1.182 filed August 18, 2010.

The petition to expedite under 37 CFR 1.182 is **granted**.

The petition to expunge under 37 CFR 1.59 is **dismissed**.

Petitioner requests that the Request for Continued Examination (RCE), be expunged from the record.

The petition is deficient because there is no statement that:

(B) the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted;
(C) the information has not otherwise been made public;
(D) there is a commitment on the part of the petitioner to retain such information for the period of any patent with regard to which such information is submitted.

Petitioner is directed to MPEP 724.05(II).

The record shows that the RCE has been processed and forwarded to the examiner for action.

The petition indicates that no fee is due in connection with the petition to expunge, however the fee required for such a petition is set forth in 37 CFR 1.59(b) which specifies a fee under § 1.17(g), currently $200. This fee has been charged to petitioner's deposit account.

Telephone inquiries concerning this communication should be directed to Carl Friedman at (571) 272-6842.

Carl Friedman
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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ARC PATENTS
7910 IVANHOE AVE. #325
LA JOLLA CA 92037

MAILED
SEP 07 2011
OFFICE OF PETITIONS

In re Patent No. 7,333,670 :
Issue Date: February 19, 2008 :
Application No. 11/324,815 :
Filed: January 4, 2006 :
Attorney Docket No. LF-P0022 :

NOTICE

This is a notice regarding your request, August 19, 2011, for acceptance of a fee deficiency submission under 37 CFR 1.28.

On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This 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/
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

Date: 03/22/11

Patent No. : 7895520 B1
Ser. No. : 11/324,842
Inventor(s) : **Doyle , et al.**
Issued : **February 22, 2011**
Title : Methods and apparatus for managing scheduled activities in a storage area network
Docket No. : **EMC-05-360**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this mater, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.17(i) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS

Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-0025
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Lamonte M. Newsome

Lamonte M. Newsome
For Mary Diggs, Supervisor
Decisions & Certificates
Of Correction Branch
(571) 272-3421 or (703) 305-8309

EMC CORPORATION
OFFICE OF THE GENERAL COUNSEL
176 SOUTH STREET
HOPKINTON MA 01748

LMN

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

EMC CORPORATION
OFFICE OF THE GENERAL COUNSEL
176 SOUTH STREET
HOPKINTON MA 01748

MAILED

JUN 10 2011

OFFICE OF PETITIONS

In re Patent No. 7,895,520

Issue Date: February 22, 2011

Application No. 11/324,842

Filed: January 3, 2006

Attorney Docket No. **EMC-05-360**

ON PETITION

This is a decision on the petition filed April 7, 2011, 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 by way of a Certificate of Correction.

The request is **dismissed**.

Petitioner must remit the surcharge for the petition of $130.00. The fee for the certificate of correction of $100.00 is of record; however, a processing fee of $130.00 is also required to process the petition. The renewed petition must be accompanied by the $130.00 processing fee.

The renewed request may directed to the following:

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

Questions regarding this decision may be directed to the undersigned at (571)272-3222.

/Kenya A. McLaughlin/
Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

[1] See *Official Gazette* of June 22, 2004.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

HUSCH BLACKWELL SANDERS, LLP
HUSCH BLACKWELL SANDERS LLP WELSH & KATZ
120 S RIVERSIDE PLAZA
22ND FLOOR
CHICAGO IL 60606

MAILED
JAN 31 2011
OFFICE OF PETITIONS

In re Patent No. 7,615,954
Issued: November 10, 2009
Application No. 11/324,920
Filed: January 4, 2006
Attorney Docket No. 8367/95870/0211

: DECISION ON REQUEST
: FOR RECONSIDERATION
: OF PATENT TERM ADJUSTMENT
: AND
: NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION

This is a decision on the PETITION FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT filed January 11, 2010, requesting that the patent term adjustment indicated on the above-identified patent be corrected from 624 days to 832 days. Applicant requests this correction in part on the basis that the Office will take in excess of three years to issue this patent and in light of the court decision in *Wyeth v. Kappos*, 2009-1120 (Fed. Cir. 1-7-2010).

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 eight hundred thirty-one (831) days is **GRANTED to the extent indicated herein**.

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period begins on January 4, 2009 and ends on July 30, 2009, the day before the RCE was filed, the B delay is 207 (not 208) days. See 35 U.S.C. 154(b)(1)(B)(i). As such, the patent term adjustment is 831 not 832 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 Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **eight hundred thirty-one (831)** days.

Telephone inquiries specific to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,615,954 B1

DATED : November 10, 2009

INVENTOR(S) : Richard W. Potter

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 (624) days

Delete the phrase "by 624 days" and insert – by 831 days--

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/01/10

TO SPE OF : ART UNIT 2852

SUBJECT : Request for Certificate of Correction for Appl. No.: 11325000 Patent No.: 7693461

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: the change in col. 7, line 10 cannot be made because there are two "roller"s. the change in col. 8, lines 9-10 which deletes "element" and then inserts —element— should not be made because it does not change anything. AS 10/25/10

_____ **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

Date Mailed : 11/28/10

Patent No. : 7693461 B2
Patent Issued : 04/06/10
Docket No. : **200402857-1**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322.

Respecting the alleged errors in the documents filed on 09/16/10; please see attachments. **"Therefore, no correction(s) is in order here under United States Codes (U.S.C.) 254 and the Code of Federal Regulation (C.F.R.) 1322."**

In view of the foregoing, your request in this matter is hereby denied.

Lamonte M. Newsome
For Mary Diggs, Supervisor
Decisions & Certificates
Of Correction Branch
(571) 272-3421 or (703) 305-8309

HEWLETT-PACKARD COMPANY
Intellectual Property Administration
3404 E. Harmony Road
Mail Stop 35
FORT COLLINS CO 80528

LMN

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/01/10

TO SPE OF : ART UNIT 2852

SUBJECT : Request for Certificate of Correction for Appl. No.: 11325000 Patent No.: 7693461

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: the change in col. 7, line 10 cannot be made because there are two "roller"s. the change in col. 8, lines 9-10 which deletes "element" and then inserts —element— should not be made because it does not change anything. AS 10/25/10

_____ **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

CLEMENTS BERNARD
1901 ROXBOROUGH ROAD
SUITE 250
CHARLOTTE NC 28211

MAILED
APR 20 2011
OFFICE OF PETITIONS

In re Application of	:	
CRAIG	:	
Application No. 11/325,035	:	DECISION ON PETITION
Filed: January 4, 2006	:	TO WITHDRAW
Attorney Docket No. 4170	:	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 4, 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 Christopher L. Bernard on behalf of the attorneys of record associated with Customer Number 22474.

The attorneys of record associated with Customer Number 22474 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address indicated below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

/Diane C. Goodwyn/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

cc: CRAIG D. MILLER
3 SKIDAWAY VILLAGE SQUARE
SAVANNAH, GA 31411

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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
11/325,035	01/04/2006	Craig D. Miller	4170

CONFIRMATION NO. 8239

POWER OF ATTORNEY NOTICE

OC000000047227159

22474
Clements Bernard
1901 Roxborough Road
Suite 250
Charlotte, NC 28211

Date Mailed: 04/19/2011

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/04/2011.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/dcgoodwyn/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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FEB 22 2012

OFFICE OF PETITIONS

STEPHEN C. KAUFMAN
IBM CORPORATION
INTELLECTUAL PROPERTY LAW DEPT.
P.O. BOX 218
YORKTOWN HEIGHTS, NY 10598

In re Application of Amir Geva, et al. Application No. 11/325,039 Filed: January 4, 2006 Attorney Docket No: IL920050075US1	: : : : :	ON PETITION

This is a decision on the petition, filed January 18, 2012, to revive the above-identified application under the unintentional provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before December 1, 2011. A Notice of Abandonment was mailed on December 28, 2011. On January 18, 2012, 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 payment of the issue fee of $1,740 and the publication fee of $300, (2) the petition fee of $1,860; and (3) an adequate statement of unintentional delay.

The application is being referred to the Office of Data Management to be processed into a patent.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing as a patent should be directed to (571) 272-4200.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/325,053	01/05/2006	Chris Bartek Frosztega		8260

7590 10/01/2010

CHRIS FROSZTEGA
42532 SNOWDON
MONTREAL, QC H3W 3H7
CANADA

EXAMINER
TEIXEIRA MOFFAT, JONATHAN CHARLES

ART UNIT	PAPER NUMBER
2863	

MAIL DATE	DELIVERY MODE
10/01/2010	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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, D.C. 20231
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Paper Number: 20100930

Chris Frosztega
42532 Snowdon
Montreal QC H3W 3H7 CA Canada

In re Application of:	:	
Chris Bartek Frosztega et al.	:	DECISION ON PETITION
Serial No.: 11/325,053	:	FOR USE OF COLOR DRAWINGS UNDER 37
Filed: 01/05/2006	:	C.F.R 1.84(a)(2)
Attorney Docket No.: **n/a**	:	

This is a decision in response to the petition under 37 C.F.R. 1.84(a)(2), filed 07/06/2010. The petition fee has been paid.

The petition is **GRANTED**.

The Petition sets forth an explanation regarding why the color drawings are necessary, the required fee, the required paragraph is provided in the specification and includes three sets of color drawings.

Accordingly, the color drawings are accepted as formal drawings in the above-referenced application.

Drew A. Dunn, Supervisory Patent Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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Douglas A. Yerkeson
Baker & Daniels LLP
300 North Meridian Street
Suite 2700
Indianapolis IN 46204

MAILED
OCT 08 2010
OFFICE OF PETITIONS

In re Application of	:	
Garry Robin Marty, et al.	:	
Application No. 11/325,128	:	DECISION GRANTING PETITION
Filed: January 4, 2006	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. DFC-P0033-01	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, October 5, 2010 to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on September 20, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Terri Johnson at (571) 272-2991.

This application is being referred to Technology Center AU 3753 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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ORRICK, HERRINGTON & SUTCLIFFE, LLP
IP PROSECUTION DEPARTMENT
4 PARK PLAZA
SUITE 1600
IRVINE, CA 92614-2558

MAILED
MAR 11 2011
OFFICE OF PETITIONS

In re Application of	:	
Suart J. Cumming	:	
Application No. 11/325,225	:	ON PETITION
Filed: January 3, 2006	:	
Attorney Docket No. 13533.4064	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed April 12, 2006, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required.

The instant petition includes a statement by the applicant's attorney that the applicant is over 65 years of age and a Declaration from applicant that he is over 65 years of age. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6059. All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

This application file is being referred to the Technology Center Art Unit 3738 for further processing.

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

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P.O. BOX 1450

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FEB 17 2011
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Lexmark International, Inc.
Intellectual Property Law Department
740 West New Circle Road
Bldg. 082-1
Lexington, Kentucky 40550-0999

In re Application of	:	
Tommy Otis LOWE et al.	:	DECISION GRANTING PETITION
Application No. 11/325,288	:	UNDER 37 CFR 1.137(b)
Filed: 4 January 2006	:	
Atty. Docket No.: 2005-0506.01	:	

This is a decision on the petition under 37 CFR 1.137(b), filed 4 January 2011, to revive the above-identified application ("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 mailed 1 April 2010 ("outstanding Office action"), which set a shortened statutory reply period of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. The application thus became abandoned on 2 July 2010, with notification mailed 10 November 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 Request for Continued Examination (RCE), RCE fee, and response (previously filed), (2) a petition fee of $1620.00, and (3) a Statement of unintentional delay. The reply to the outstanding Office action is accepted as having been unintentionally delayed.

There is no indication that the person signing the instant Petition was given a power of attorney or authorization of agent to prosecute the Application. Further, it is not apparent whether the signer of the Petition was in a position to have firsthand 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 the delay. *See,* 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (10 October 1997), 1203 Off. Gaz. Pat. Office 63, 103 (21 October 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.

General inquiries relating to this decision should be directed to Robert DeWitty, Petitions Examiner, Office of Petitions (571-272-6051).

The application file will be referred to Technology Center AU 2192 for further action on the filed Response.

David Bucci
Petitions Examiner
Office of Petitions

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SUITE 3400
CHICAGO IL 60661

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SEP 21 2011
OFFICE OF PETITIONS

In re Application of	:	
Heiman et al.	:	
Application No. 11/325720	:	ON APPLICATION FOR
Filing or 371(c) Date: 01/05/2006	:	RECONSIDERATION OF
Attorney Docket Number: 17126US02	:	PATENT TERM ADJUSTMENT

This is a decision on the "APPLICATION FOR RECONSIDERATION OF THE DETERMINATION OF PATENT TERM ADJUSTMENT UNDER 35 U.S.C. 154(b) ACCOMPANYING THE NOTICE OF ALLOWANCE (37 C.F.R. 1.705)," filed August 29, 2011. Applicants' request recalculation of the patent term adjustment calculation to 936 days, not 818 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 an adjustment of 118 days.

The Application for Patent Term Adjustment Including Request for Reconsideration of Patent Term Adjustment ("PTA") under 37 CFR 1.705(b), as it relates to the assertion that the Office erred in failing to calculate an adjustment of 118 days is **DISMISSED**.

On June 13, 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 818 days.

On August 29, 2011, applicants timely submitted the instant application for patent term adjustment[1]. Applicants request that the Determination of Patent Term Adjustment be corrected from 818 days, as indicated on the Determination of PTA mailed June 13, 2011, to an adjustment of 936 days. Applicants aver that the Office erred in failing to calculate an adjustment of 118 days pursuant to 37 CFR 1.702(e), in connection with the filing of a Notice of Appeal and subsequent mailing of a Notice of Allowance. Petitioner acknowledges that the current rule does not explicitly provide a patent term adjustment in this situation. Petition at p.3. Petitioner, however, cites to proposed rules that would allow for a patent term adjustment in this situation. See, Revision of Patent Term Extension and Adjustment Provisions Relating to Appellate Review and Information Disclosure Statements, 76 Fed. Reg. 18990 (April 6, 2011).

[1] PALM records show that the present petition preceded payment of the Issue Fee.

Petitioner's arguments have been carefully considered. As stated in the Notice of proposed rulemaking,

> The patent term adjustment provisions of the American Inventors Protection Act of 1999 (AIPA) and the patent term extension provisions of the Uruguay Round Agreements Act (URAA) each provide for patent term extension or adjustment if the issuance of the patent was delayed due to appellate review by the Board of Patent Appeals and Interferences (BPAI) or by a Federal court and the patent was issued pursuant to or under a decision in the review reversing an adverse determination of patentability. (Emphasis added).

Revision of Patent Term Extension and Adjustment Provisions Relating to Appellate Review and Information Disclosure Statements, 76 Fed. Reg. 18990 (April 6, 2011

The current statute and rules of practice do not provide for an adjustment of the patent term in this situation. Petitioner acknowledges that the current rule does not explicitly provide a patent term adjustment in this situation. The petition is therefore not grantable.

However, it is noted that the Office issued a Notice of proposed rulemaking entitled *Revision of Patent Term Extension and Adjustment Provisions Relating to Appellate Review and Information Disclosure Statements*, 76 FR 18990 (April 6, 2011). To the extent that the final rule on *Revision of Patent Term Extension and Adjustment Provisions Relating to Appellate Review* revises the interpretation of appellate review applied in this decision, Patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the date of the final rule to file a request for reconsideration. No extensions of time will be granted under § 1.136.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

In view thereof, the correct Patent Term Adjustment at the time of the mailing of the Notice of Allowance remains 818 days, subject to any terminal disclaimer.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent, 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 the undersigned at (571) 272-3232.

/DLW/

Derek L. Woods
Attorney
Office of Petitions

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OFFICE OF PETITIONS

MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

In re Patent of Arie Heiman	:	DECISION ON REQUEST
Patent No. 7,643,993	:	FOR RECONSIDERATION OF
Issue Date: January 5, 2010	:	PATENT TERM ADJUSTMENT
Application No. 11/325,721	:	AND NOTICE OF INTENT TO
Filing Date: January 5, 2006	:	ISSUE CERTIFICATE OF
Attorney Docket No. 17125US02	:	CORRECTION

This is a decision on the petition filed June 3, 2010, requesting the patent term adjustment indicated on the patent be corrected to indicate the term of the patent is extended or adjusted by one thousand twenty-four (1024) days.

The request for reconsideration of the patent term adjustment indicated on the patent is **dismissed**.

The patent issued January 5, 2010. The patent set forth a patent term adjustment determination of 760 days, which is the sum of 773 days of delay under 37 C.F.R. § 1.703(a) ("A Delay") and 365 days of delay under 37 C.F.R. § 1.703(b) ("B Delay) reduced by 365 days of overlap between A Delay and B Delay and reduced by 13 days of delay under 37 C.F.R. § 1.704(c) ("Applicant Delay").

If Patentee disagreed with the Office's determination of the number of days of Applicant Delay, Patentee could have filed a petition under 37 C.F.R. § 1.705(d) within two months of the date the patent issued.

Patentee did not file a request for reconsideration of the patent term adjustment under 37 C.F.R. § 1.705(d) within two months of the date the patent issued. Instead, Patentee filed a Request for Recalculation of Patent Term Adjustment in View of *Wyeth* ("*Wyeth* Request") on April 29, 2010, which was more than two months after the date the patent issued.

The Office issued a decision in response to the *Wyeth* Request on May 4, 2010. The decision stated a certificate of correction setting forth a patent term adjustment of 1024 days would be issued unless a request for reconsideration of the decision was filed within the longer of longer of one month or 30 days from the issuance date of this decision.

The patent term adjustment of 1024 days was the sum of 773 days of A Delay and 365 days of B Delay reduced by 101 days for overlap between the period of A Delay and the period of B Delay and reduced by 13 days for Applicant Delay.

The instant petition was filed June 3, 2010. The petition does not assert the patent term adjustment on the prior decision was based on an incorrect determination of the number of days of overlap between A Delay and B Delay. Instead, the petition asserts the Office miscalculated the number of days of Applicant Delay.

Patentee appears to misunderstand the nature of the *Wyeth* Request filed February 2, 2010. A *Wyeth* Request only allows a party to challenge the number of days by which the Office reduced the patent term adjustment for overlap between A Delay and B Delay. In fact, the *Wyeth* Request form submitted by Patentees explicitly states, with emphasis added in bold, "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)." The first sentence on second page of the form is in bold and states, "This form is only [to be used] if the sole basis for requesting the recalculation is the USPTO's pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A).

A party may not challenge the Office's determination of Applicant Delay via a *Wyeth* Request or via a request for reconsideration of a decision issued in response to a *Wyeth* Request. Therefore, the petition is dismissed.

The Office notes the requested relief would not have been granted even if a petition under 37 C.F.R. § 1.705(d) had been timely filed. An amendment under 37 C.F.R. § 1.312 was filed November 6, 2009, and a "Response to Rule 312 Communication" was issued November 18, 2009. Patentee argues the correct number of days of delay under 37 C.F.R. § 1.704(c)(10) is 12 days instead of 13 days. Patentee *appears* to believe the correct number of days of delay is the number of days beginning on November 7, 2009, the day after the date Patentee filed the amendment, and ending on November 18, 2009, the date the Office issued a response to the amendment. However, the period of delay under 37 C.F.R. § 1.704(c)(10) starts on the date the paper is filed, *not* the day after the date the paper is filed. The number of days beginning on November 6, 2009, the date the amendment was filed under 37 C.F.R. § 1.312, and ending on November 18, 2009, the date the Office issued a "Response to Rule 312 Communication," is 13 days. Therefore, the correct number of days of delay under 37 C.F.R. § 1.704(c)(10) is 13 days.

In view of the prior discussion, a certificate of correction will be issued indicating the term of the above-identified patent is extended or adjusted by one thousand twenty-four (1024) days which is the patent term adjustment determination set forth on the May 4, 2010 decision. Submission of the $200.00 fee set forth in 37 C.F.R. § 1.18(e) is acknowledged. No additional fee is required.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand twenty-four (1024)** days.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

Attached: Draft Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO.	:	7,643,993 B2
APPLICATION NO.	:	11/325,721
DATED	:	January 5, 2010
INVENTOR(S)	:	Arie Heiman

DRAFT

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the Title page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 760 days.

Delete the phrase "by 760 days" and insert -- by 1024 days--

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In re Application of	:	
Zeng, et al.	:	
Application No. 11/325,751	:	ON REQUEST FOR
Filed: January 5, 2006	:	RECONSIDERATION OF
Attorney Docket Number: 17127US02	:	PATENT TERM ADJUSTMENT

This is a decision on the petition under 37 CFR 1.705(b), filed July 13, 2010. Applicants believe that they should be accorded an additional PTA of 659 days. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment solely as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file a request for reconsideration of patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

In view thereof, the correct determination of PTA prior to issuance is **three hundred fifty-five (355) days** (577 days of PTO delay, reduced by 222 (84+138) days of Applicant delay).

The $200.00 fee set forth in 37 CFR 1.18(e) has been charged to Deposit Account No. 13-0017, as authorized.

The application is being forwarded to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to Petitions Attorney Cliff Congo at (571) 272-3207.

Anthony Knight
Director
Office of Petitions

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[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

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ROBERT D. SHEDD, PATENT OPERATIONS
THOMSON LICENSING LLC
P.O. BOX 5312
PRINCETON, NJ 08543-5312

In re Application of	:	
Cai et al.	:	
Application No. 11/325,767	:	ON PETITION
Filed: January 5, 2006	:	
Attorney Docket No. PA050004	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 22, 2011, to revive the above-identified application.

The petition is **DISMISSED**.

The rules and statutory provisions governing the operations of the U.S. Patent and Trademark Office require payment of a fee on filing each petition under the unintentional provisions of 37 CFR 1.137(b) to revive an abandoned application for patent based on unintentional delay or to accept an unintentionally delayed payment of a fee for issuing a patent. In this instance, the fee required by law is $1,620.

The petition in the above-identified application was not accompanied by payment of the required fee of $1,620. No consideration on the merits can be given to the petition until the required fee is received.

However, if petitioner contests the abandonment of the above application and believes that no fee should be assessed, a petition under 37 CFR 1.181 to withdraw the holding of abandonment may be more appropriate. *See* MPEP 711.03(c)(I)(B) "Petition To Withdraw Holding of Abandonment Based on Evidence That a Reply Was Timely Mailed or Filed". Petitioner should note that filing a petition under 37 CFR 1.181 does not necessarily guarantee that it will be granted.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By Hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By Fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-6059.

/A. Kelley-Collier/
Alicia Kelley-Collier
Petitions Examiner
Office of Petitions

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Robert D. Shedd, Patent Operations
THOMSON Licensing LLC
P.O. Box 5312
Princeton NJ 08543-5312

MAILED
SEP 12 2011
OFFICE OF PETITIONS

In re Application of	:	
Li Bin Cai et al.	:	
Application No. 11/325,767	:	DECISION ON PETITION
Filed: January 5, 2006	:	
Attorney Docket No. PA050004	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed August 25, 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 December 23, 2010, which set a period for reply of three (3) months. Accordingly, this application became abandoned on March 24, 2011. A Notice of Abandonment was mailed on April 7, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of corrected drawings, (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay. Accordingly, the corrected drawings 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 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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AUG 09 2010

OFFICE OF PETITIONS

MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

In re Application of :
Heiman, et al. :
Application No. 11/325,808 : ON APPLICATION FOR
Filed: January 5, 2006 : PATENT TERM ADJUSTMENT
Attorney Docket No. **17128US02** :

This is in response to the "APPLICATION FOR RECONSIDERATION OF THE DTERMINATION OF PATENT TERM ADJUSTMENT UNDER 35 USC 154(b) ACCOMPANYING THE NOTICE OF ALLOWANCE (37 CFR § 1.705)" filed July 21, 2010. Applicants request that the determination of patent term adjustment be corrected from one thousand, eighteen (1,018) days to one thousand, three hundred and forty-five (1,345) days. Applicants request this correction on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office 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].

Deposit account 13-0017 will be charged $200.00 fee for the fee set forth in 37 CFR 1.18(e). No additional fees are required.

The Office of Data Management has been advised of this decision. This matter is being referred to the Office of Data Management for issuance of the patent. 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

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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.

that is mailed to applicants approximately three weeks prior to issuance.

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110711

DATE : July 11, 2011

TO SPE OF : ART UNIT 1621

SUBJECT : Request for Certificate of Correction on Patent No.: 7511175

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - ST (South Tower) 9A22
Palm location **7590** - Tel. No. (703) 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriated box.

☒ **Approved** All changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

/DANIEL SULLIVAN/
Supervisory Patent Examiner.Art Unit 1621

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BINGHAMTON, NY 13901

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MAY 06 2011

OFFICE OF PETITIONS

In re Application of	:	
Boyer et al.	:	
Application No. 11/325,982	:	ON PETITION
Filing: January 5, 2006	:	
Attorney Docket: INN-111CIP	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed January 5, 2006, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required.

The instant petition includes a statement by the applicant's attorney that the applicant is greater than 65 years of age and is also accompanied with a copy of applicant's Pennsylvania birth certificate as well as a Declaration from the applicant that he is more than 65 years of age. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6059. All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

This matter is being referred to the Technology Center Art Unit 3651 for action on the merits commensurate with this decision.

A. Kelley Collier

Alicia Kelley-Collier
Petitions Examiner
Office of Petitions

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SCOTTSDALE, AZ 85251

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JUN 15 2011

OFFICE OF PETITIONS

In re Application of
Anthony Robert Muir
Application No. 11/326,002
Filed: January 5, 2006
Attorney Docket No. 6310P2994

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed April 26, 2011, to revive the above-identified application.

A review of the record discloses that the above application became abandoned for failure to timely pay the issue fee and publication fees on or before September 13, 2010. A Notice of Abandonment was mailed September 28, 2010.

The Office acknowledges receipt of $810 for treatment of the present petition, $405 for the filing of a Request for Continued Examination (RCE) and an amendment under 37 CFR 1.114 filed on April 26, 2011. However, 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[1]; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). The instant petition lacks item(s) (1).

In an application or patent, abandoned or lapsed for failure to pay the issue fee, publication fee or any portion thereof, the required reply must be the payment of the issue fee, publication fee or any outstanding balance thereof. *See* MPEP 711.03(c)(II)(A)(1). Therefore, the filing of a continuing application is not a proper reply under 37 CFR 1.137(a)(1) or (b)(1). Therefore, petitioner must submit $755 for payment of the issue fee and $300 for payment of the publication fee[2].

In view of the above, the present petition is **dismissed**.

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[1] Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D).

[2] The deposit account listed in the present petition contains insufficient funds to charge the $755 issue fee and $300 publication fee.

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.

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) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

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SCOTTSDALE, AZ 85251

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JUL 21 2011

OFFICE OF PETITIONS

In re Application of
Anthony Robert Muir
Application No. 11/326,002
Filed: January 5, 2006
Attorney Docket No. 6310P2994

ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(b), filed June 22, 2011, to revive the above-identified application.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of $755 for payment of the issue fee and $300 for payment of the publication fee; (2) the petition fee of $810; and (3) a proper statement of unintentional delay. Therefore, the petition is **granted**.

A review of the record shows that the Request for Continued Examination (RCE) and amendment submitted on April 26, 2011, was filed prior to payment of the issue fee. Therefore, this application file is being forwarded to Technology Center Art Unit 3633, 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) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

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1000 Eagle Gate Tower
60 East South Temple
Salt Lake City UT 84111

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OFFICE OF PETITIONS

In re Application of
Peter Bookman et al.
Application No. 11/326,008
Filed: January 5, 2006
Attorney Docket No. **18030.3.4.1**

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 8, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, June 2, 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 May 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 $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 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 on the reply received.

JoAnne Burke
Petitions Examiner
Office of Petitions

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SUITE 3400
CHICAGO IL 60661

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SEP 2 1 2010

OFFICE OF PETITIONS

In re Patent No. 7,636,838 :
Issued: December 22, 2009 : LETTER REGARDING
Application No. 11/326,065 : PATENT TERM ADJUSTMENT
Filed: January 5, 2006 :
Attorney Docket No. 16905US01 :

This is a decision on the "REQUEST FOR RECONSIDERATION OF USPTO RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF WYETH" filed on June 4, 2010, requesting that the patent term adjustment indicated on the above-identified patent be corrected from 415 days to 418 days.

The request for review of the patent term adjustment is **DISMISSED.**

Patentees are given **THIRTY (30) DAYS or ONE (1) MONTH, whichever is longer,** from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The patent term adjustment indicated in the patent is properly reflected.

On April 29, 2010, patentee filed a Request for Recalculation of Patent Term Adjustment in View of Wyeth. On May 4 2010, the Office mailed a decision 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 415 days.

Applicants contest the application(s) of 37 CFR § 1.704(b) to reduce the patent term adjustment by two (2) days in that the Office action response was filed on the first business day after a deadline falling on a weekend or holiday and thus was not late.

Applicant's arguments have been considered, but not found to be persuasive.

Rule 1.704(b) sets forth, in pertinent part:

> an applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of three months that are

> taken to reply to any notice or action by the Office making any rejection, objection, argument, or other request, measuring such three-month period from the date the notice or action was mailed or given to the applicant, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date that is three months after the date of mailing or transmission of the Office communication notifying the applicant of the rejection, objection, argument, or other request and ending on the date the reply was filed. The period, or shortened statutory period, for reply that is set in the Office action or notice has no effect on the three-month period set forth in this paragraph.

A non-Final Office Action was mailed February 9, 2009 and the response was therefore due on May 9, 2009. May 9, 2009 was a weekend and thus, the response was received on May 11, 2009 which is three months and two days later. As such, a reduction of two days was assessed. Patentees have argued that this is improper, as May 9, 2009 fell on a weekend. However, Petitioner will note that 35 U.S.C. 154(b)(2)(C)(ii)[1] does not require that a reply be filed in the Office within its three (3) month grace period, but simply specifies that there is a patent term adjustment reduction if a reply is not filed within this three (3) month period. Therefore, the "carry-over" provisions of 35 U.S.C. § 21(b)[2] does not apply to the three (3) month period in 35 U.S.C. 154(b)(2)(C)(ii).

Additionally, Applicants are contesting the application of 37 CFR § 1.704(c)(10) to reduce the patent term adjustment due to a paper filed after the Notice of Allowance has been mailed, however, Patentees have miscalculated the delay pursuant to 37 CFR § 1.704(c)(10). The first day of the calculation is November 2, 2009, the date the 37 CFR § 1.312 amendment was filed, and ends on November 18, 2009, the date the response was filed, for a total of 17 days.

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] "With respect to adjustments to patent term made under the authority of paragraph (1)(B), an applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of 3 months that are taken to respond to a notice from the Office making any rejection, objection, argument, or other request, measuring such 3-month period from the date the notice was given or mailed to the applicant."

[2] "When the day, or the last day, for taking any action or paying any fee in the United States Patent and Trademark Office falls on Saturday, Sunday, or a Federal holiday within the District of Columbia, the action may be taken, or fee paid, on the next succeeding secular or business day."

§ 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or such other paper;
or
(ii) Four months;

As stated in M.P.E. P. 2732

37 CFR 1.703 specifies the period of adjustment if a patent is entitled to patent term adjustment under 35 U.S.C. 154(b)(1) and 37 CFR 1.702. 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." For example, a period beginning on April 1 and ending on April 10 is ten (and not nine) days in length. 35 U.S.C. 154(b)(1)(A) and (B) provide for an adjustment of one day for each day after the end of the period set forth in 35 U.S.C. 154(b)(1)(A)(i), (ii), (iii), (iv), and (B) until the prescribed action is taken, whereas 35 U.S.C. 154(b)(1)(C) provides for an adjustment of one day for each day of the pendency of the proceeding, order, or review prescribed in 35 U.S.C. 154(b)(1)(C)(i) through (iii). Therefore, the end of the period set forth in 37 CFR 1.703(a) and 1.703(b) (which correspond to 35 U.S.C. 154(b)(1)(A) and (B)) is "day zero" (not "day one") as to the period of adjustment, whereas the first day of the proceeding, order, or review set forth in 37 CFR 1.703(c), 1.703(d), and 1.703(e) (which correspond to 35 U.S.C. 154(b)(1)(C)(i) through (iii)) is "day one" of the period of adjustment.

As such, the total patent term adjustment is six hundred sixty-four days.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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P.O. BOX 8910
RESTON VA 20195

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APR 15 2011
OFFICE OF PETITIONS

In re Patent No. 7,563,660	:	
Issue Date: July 21, 2009	:	
Application No. 11/326,171	:	DECISION ON PETITION
Filed: January 6, 2006	:	
Attorney Docket No. 2557SI-000368/US	:	

This is a decision on the Request For Certificate Of Correction, filed October 2, 2009, which is being treated as Petition Under 37 CFR §3.81(b), to identify the correct assignee's name and address. 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 address on the previously submitted PTOL 85B. Accordingly, petitioner requests, in effect, that the Title Page of the above-identified patent be corrected, via issuance of Certificate of Correction, to correct the assignee's name and address identified thereon from:

"Samsung Electronics, Co., Ltd., Gyeonggi do (KR)"

to:

--Samsung Corning Precision Glass Co., Ltd., Gumi (KR)--

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

The requisite $100.00 fee (Fee Code 1811), as set forth under 37 CFR 1.20(a), and the requisite $130.00 processing fee (Fee Code 1464), as set forth under 37 CFR 1.17(i), have been submitted. Further, Office assignment records are consistent with the requested correction. Accordingly, since the Petition complies with the provisions of 37 CFR 3.81(b), it is appropriate for the Office to issue a Certificate of Correction in accordance with the content of the Form (PTO/SB/44) submitted with Petition.

Inquiries related this communication should be directed to the undersigned at (571)272-3213.

Any questions concerning the issuance of a Certificate of Correction should be directed to the Certificates of Correction Branch at (703)756-1814.

This matter is being referred to the Certificates of Correction Branch for processing of a Certificate of Correction in U.S. Patent No. 7,563,660.

Cheryl Gibson Baylor

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

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Paper No.

FOLEY & LARDNER LLP
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON WI 53701-1497

MAILED
JUN 20 2011
OFFICE OF PETITIONS

In re Application of	:	
Watters et al.	:	
Application No. 11/326,224	:	ON APPLICATION FOR
Filed: January 4, 2006	:	PATENT TERM ADJUSTMENT
Atty Docket No. 088245-3229	:	

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 May 31, 2011. Applicant requests reconsideration of the initial determination of patent term adjustment solely on the basis that the Office will take in excess of three years to issue the patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

---

[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 application is being forwarded to the Office of Data Management for processing into a patent.

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
www.uspto.gov

GREENBLUM & BERNSTEIN, P.L.C.
1950 ROLAND CLARKE PLACE
RESTON VA 20191

MAILED

SEP 27 2010

OFFICE OF PETITIONS

In re Application of	:	
Noriyuki Sugita, et al.	:	
Application No. 11/326,411	:	DECISION GRANTING PETITION
Filed: January 6, 2006	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. P28738	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, September 24, 2010 to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on September 14, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Terri Johnson at (571) 272-2991.

This application is being referred to Technology Center AU 3739 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.*

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 10/05/11

TO SPE OF : ART UNIT 2627

SUBJECT : Request for Certificate of Correction for Appl. No.: 11326535 Patent No.: 7289789

CofC mailroom date: 09/29/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580
[redacted]

Note: **Should the changes to claim 2 and 3 be approved?**

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

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. /HN/

Approved in Part — Specify below which changes **do not** apply.

Denied — State the reasons for denial below.

Comments: _____

/MG/ — **SPE**

2627 — **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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NOVO NORDISK, INC.
INTELLECTUAL PROPERTY DEPARTMENT
100 COLLEGE ROAD WEST
PRINCETON NJ 08540

MAILED

DEC 21 2010

OFFICE OF PETITIONS

In re Patent No. 7,780,636	:	DECISION ON REQUEST
Radmer et al.	:	FOR
Issue Date: 08/24/2010	:	RECONSIDERATION OF
Application No. 11/326,550	:	PATENT TERM ADJUSTMENT
Filing or 371(c) Date: 01/05/2006	:	
Atty Docket No.	:	
6734.204-US	:	

This is a decision on the petition filed on October 22, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand seventy-nine (1079) 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 nineteen (1019) days.

Patentees assert that the two (2) day reduction for applicant delay in connection with the filing of the issue and publication fees on June 28, 2010, in response to the Notice of Allowance and Fee(s) Due mailed on March 26, 2010, is incorrect. Specifically, patentees assert that the Notice of Allowance and Fee(s) Due stated that the due date was June 28, 2010, and that the fees were timely paid on that date.

Petitioners' argument has been considered, but is not persuasive.

37 CFR 1.704(b) states that

> With respect to the grounds for adjustment set forth in §§ 1.702(a) through (e), and in particular the ground of adjustment set forth in § 1.702(b), an applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of three months that are taken to reply to any notice or action by the Office making any rejection, objection, argument, or other request,

> measuring such three-month period from the date the notice or action was mailed or given to the applicant, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date that is three months after the date of mailing or transmission of the Office communication notifying the applicant of the rejection, objection, argument, or other request and ending on the date the reply was filed. **The period, or shortened statutory period, for reply that is set in the Office action or notice has no effect on the three-month period set forth in this paragraph.**
>
> (emphasis added)

As stated above, the period, or shortened statutory period, for reply that is set in the Office action or notice has no effect on the three-month period set forth in 37 CFR 1.704(b). 37 CFR 1.7(a) governs the period for reply to the Notice of Allowance and Fee(s) Due, not the determination of patent term adjustment. *See also*, Comment 10, *Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term*; *Final Rule*, 65 Fed. Reg. 56366 (September 18, 2000). Accordingly, patentees' argument on application for patent term adjustment is not found persuasive.

It is undisputed that on June 28, 2010, then applicants submitted payment of the issue and publication fee, three months and two (2) days after the mailing of the Notice of Allowance mailed on March 26, 2010. As such, the reduction of two (2) days for applicant delay is warranted and will not be removed.

Patentees further dispute the 58 day reduction for the filing of the supplemental oath or declaration on June 28, 2010, after the mailing of the notice of allowance. Specifically, the petition states that the delay is disputed because "the paper which the PTO deems a response was simply the filing of an Oath."

Patentees argument has been considered, but is not persuasive.

37 CFR 1.704(c)(10) states:

> Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping: 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.

It is undisputed that on March 26, 2010, a notice of allowance was mailed, and that on June 28, 2010, after the mailing of the notice of allowance, an amendment or other paper (an oath or declaration under 37 CFR 1.63) was filed. On August 24, 2010, 58 days after the declaration was filed, the application issued as U.S. Patent No. 7,780,636.

Further, in this regard, MPEP 2732 states, in pertinent part:

> 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)

As an oath or declaration is among the types of papers which are considered as a "failure to engage in reasonable efforts to conclude processing or examination of an application," the reduction for applicant delay of 58 days, from the date the paper was filed until the date the Office responded (by issuing the patent), is proper and will not be removed.

Accordingly, no change will be made to the patent term adjustment of 1019 days (785 days Office delay + 407 days three years delay – 113 overlapping days – 60 days of applicant delay) days indicated on the face of the issued patent.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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Kilpatrick Townsend & Stockton/Qualcomm
Two Embarcadero Center
8th Floor
San Francisco CA 94111-3834

MAILED

JAN 04 2012

OFFICE OF PETITIONS

In re Patent No. 7,379,566
Issue Date: May 27, 2008
Application No. 11/326,610
Filed: January 6, 2006
Attorney Docket No. 112947(822624)

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed December 2, 2011.

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3215.

Charlema Grant
Attorney Advisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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VOLPE AND KOENIG, P.C.
DEPT. ICC
UNITED PLAZA
30 SOUTH 17TH STREET
PHILADELPHIA PA 19103

MAILED
APR 12 2011
OFFICE OF PETITIONS

In re Patent No. 7,616,970	:	
Issued: Nov. 10, 2009	:	
Application No. 11/326,809	:	ON PETITION
Filed: Jan. 6, 2006	:	
Attorney Docket No. TAN-2-1493.04.US	:	

This is a decision on the April 5, 2011 petition, requesting the withdrawal of a previously filed terminal disclaimer and entry of a concurrently filed terminal disclaimer under the provisions of 37 CFR 1.182. The requisite petition fee has been paid. This is also a decision on the petition for expedited consideration under 37 CFR 1.182 of the above-referenced petition regarding the terminal disclaimer.

The petition is (a) dismissed as to withdrawal of the previously filed terminal disclaimer and (b) granted as to entry of concurrently filed terminal disclaimer. The petition for expedited consideration is also granted.

Petitioner states that the terminal disclaimer filed May 5, 2009, over U.S. Patent No. 6,526,034 should be withdrawn and replaced by the terminal disclaimer filed April 5, 2011. Petitioner explains that the previously filed terminal disclaimer incorrectly identified the owner of the patent properties. Specifically, petitioner states that the owner of 100% interest in Application No. 11/326,809, which matured into U.S. Patent No. 7,616,970, is, IPR Licensing, Inc., rather than InterDigital Technology Corporation, as incorrectly identified on the entered terminal disclaimer filed on May 5, 2009.

The concurrently filed terminal disclaimer is accepted. The Office will not, however, withdraw the existing terminal disclaimer, since it was a properly filed document and there is no reason to disturb it. To the extent that the existing terminal disclaimer will not be operative, for lack of proper identification of the ownership of the application which matured into the subject patent, it simply will not operate, and no harm to applicant has been shown by its presence.

Telephone inquiries related to this decision may be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231.

Kenneth M. Schor
Senior Legal Advisor
Office of Patent Legal Administration

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Cooley, LLP
Attn: Patent Group
Suite 1100
777 – 6th Street, NW
Washington, DC 20001

MAILED

MAY 3 1 2011

OFFICE OF PETITIONS

In re Application of	:	
Alexey L. Margolin et al.	:	
Application No. 11/327,010	:	DECISION ON PETITION
Filed: January 6, 2006	:	TO WITHDRAW
Attorney Docket No. ALTH-011/07US 307255-2173	:	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 12, 2011.

The request is **moot because a revocation of power of attorney has been filed.**

A review of the file record indicates that the power of attorney to Cooley, LLP, has been revoked by the assignee of the patent application on May 19, 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: Wilson, Sonsini, Goodrich & Rosati
650 Page Mill Road
Palo Alto, CA 94304-1050

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
11/327,010	01/06/2006	Alexey L. Margolin	ALTH-011/07US 307255-2173

CONFIRMATION NO. 3408

POWER OF ATTORNEY NOTICE

OC000000047860519

58249
COOLEY LLP
ATTN: Patent Group
Suite 1100
777 - 6th Street, NW
WASHINGTON, DC 20001

Date Mailed: 05/24/2011

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/19/2011.

- 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).

/qtran/

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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MAILED
MAY 27 2011
OFFICE OF PETITIONS

FAEGRE & BENSON LLP
PATENT DOCKETING - INTELLECTUAL PROPERTY
2200 WELLS FARGO CENTER
90 SOUTH SEVENTH STREET
MINNEAPOLIS, MN 55402-3901

In re Application of	:	
Marlo G. Van Klompenburg, et al.	:	DECISION NOTING JOINDER OF
Application No.: 11/327,027	:	INVENTOR AND PETITION
Filed: January 6, 2006	:	UNDER 37 CFR 1.47(a)
Attorney Docket No.: 314238	:	

This is in response to the petition, filed January 6, 2006, under the provisions of 37 CFR 1.47(a). The delay in responding is regretted; however, the petition was recently referred to the Office of Petitions for consideration.

The petition is **DISMISSED AS MOOT**.

In view of the joinder of the inventor, further consideration under § 1.47(a) is not necessary. This application does not have any Rule 1.47 status and no such status should appear on the record for this file. This application need not be returned to this Office for any further consideration under 37 CFR 1.47(a).

This application is being referred to Technology Center AU 3634.

Inquiries regarding this communication may be directed to the undersigned at (571) 272-3204. Inquiries concerning the examination or status of the application should be directed to the Technology Center.

/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
www.uspto.gov

RICK ABEGGLEN, ATTY.
c/o MUELLER SPORTS MEDICINE, INC.
ONE QUENCH DRIVE
P.O. BOX 99
PRAIRIE DU SAC WI 53578

MAILED
SEP 24 2010
OFFICE OF PETITIONS

In re Application of :
Nelson :
Application No. 11/327,040 : DECISION ON PETITION
Filed: January 6, 2006 :
Attorney Docket No. MSM 0209 :

This is a decision on the petition under 37 CFR 1.137(b), filed September 3, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to file a proper reply to the final Office action mailed February 3, 2010, which set a three (3) month shortened statutory period for reply. The application became abandoned on May 4, 2010. A Notice of Abandonment was mailed on August 13, 2010.

The Notice of Appeal, filed September 3, 2010, has been entered and made of record. Accordingly, the two-month period for filing an appeal brief (accompanied by the fee required by 37 CFR 1.17(c)) runs from the date of this decision.

The application file is being forwarded to Technology Center 3700, GAU 3772 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No.

FULWIDER PATTON LLP
HOWARD HUGHES CENTER
6060 CENTER DRIVE, TENTH FLOOR
LOS ANGELES CA 90045

MAILED
OCT 26 2011
OFFICE OF PETITIONS

In re Patent No. 7,419,633	:	
Oscar Jimenez	:	
Issue Date: September 2, 2008	:	
Application No. 11/327,060	:	NOTICE REGARDING DEFICIENCY
Filed: January 6, 2006	:	
Atty Docket No. MICRU-78482	:	

This is a notice regarding your letter received October 19, 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 $640 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
Alexandria, VA 22313-1450
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ANDRUS, SCEALES, STARKE & SAWALL, LLP
100 EAST WISCONSIN AVENUE, SUITE 1100
MILWAUKEE, WI 53202

MAILED

OCT 21 2010

OFFICE OF PETITIONS

Patent No. 7,615,240
Application No. 11/327,066
Filed: January 6, 2006
Issued: November 10, 2009
Attorney Docket No. 5171-00046

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission filed August 31, 2010, 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) 272-6059.

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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SHERIDAN ROSS PC
1560 BROADWAY
SUITE 1200
DENVER CO 80202

MAILED
FEB 01 2011
OFFICE OF PETITIONS

In re Application of	:	
Nam Q. Huyn	:	
Application No. 11/327,169	:	DECISION ON PETITION
Filed: January 5, 2006	:	
Attorney Docket No. 4220-115-1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 7, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement mailed June 23, 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 July 24, 2009. A Notice of Abandonment was mailed January 5, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a response to the Restriction Requirement, (2) the petition fee of $1,620.00, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

This application is being referred to Technology Center AU 1631 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

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P.O. Box 1450
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JONES DAY
222 EAST 41ST ST
NEW YORK, NY 10017

MAILED
NOV 07 2011
OFFICE OF PETITIONS

In re Application of
John E. Edwards Jr. et al
Application No. 11/327,197
Filed: January 6, 2006
Attorney Docket No. 066742-0043

DECISION ON PETITION
TO MAKE SPECIAL UNDER
37 CFR 1.102(c)(1)

This is a decision on the petition under 37 CFR 1.102(c)(1), filed October 28, 2011, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED.**

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required.

The instant petition includes a statement from a registered practitioner that he has evidence that inventor John E. Edwards Jr. is over 65 years of age. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at 571-272-3210. All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The matter is being referred to the Technology Center Art Unit 1645 for action on the merits commensurate with this decision.

Irvin Dingle
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : **02/08/11**

TO SPE OF : ART UNIT: **3714 Attn: LEWIS DAVID L (SPE)**

SUBJECT : Request for Certificate of Correction for Appl. No.: **11/327215** Patent No.: **7846017**

CofC Mailroom date: 01/31/11

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

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: _____

_____

_____

/David L Lewis/ _____ **_3714_____**
SPE **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20111102

DATE : November 02, 2011

TO SPE OF : ART UNIT 2116

SUBJECT : Request for Certificate of Correction on Patent No.: 7788516

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:

Reqpuest changes do not put the claims in properc laim format and potentially alter the scop of the claims.

/KIM HUYNH/
Supervisory Patent Examiner.Art Unit 2116

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20111102

DATE : November 02, 2011

TO SPE OF : ART UNIT 2116

SUBJECT : Request for Certificate of Correction on Patent No.: 7788516

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - ST (South Tower) 9A22
Palm location **7590** - Tel. No. (703) 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriated box.

☐ **Approved** All changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☒ **Denied** State the reasons for denial below.

Comments:

Request puts claims in improper format and potentially alters the scope of the claims.

/KIM HUYNH/
Supervisory Patent Examiner.Art Unit 2116

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Date Mailed : 11/04/11

Patent No. : 7788516 B2
Patent Issued : **August 31, 2010**
Docket No. : **4860P3853X3**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322.

Respecting the alleged errors in the documents filed on 10/24/11; please see attachments. **"Therefore, no correction(s) is in order here under United States Codes (U.S.C.) 254 and the Code of Federal Regulation (C.F.R.) 1322."**

In view of the foregoing, your request in this matter is hereby denied.

Lamonte M. Newsome
For Mary Diggs, Supervisor
Decisions & Certificates
Of Correction Branch
(571) 272-3421 or (703) 305-8309

APPLE INC./BSTZ
BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE CA 94085-4040

LMN

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20111102

DATE : November 02, 2011

TO SPE OF : ART UNIT 2116

SUBJECT : Request for Certificate of Correction on Patent No.: 7788516

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - ST (South Tower) 9A22
Palm location **7590** - Tel. No. (703) 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriated box.

☐ **Approved** All changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☒ **Denied** State the reasons for denial below.

Comments:

Request puts claims in improper format and potentially alters the scope of the claims.

/KIM HUYNH/
Supervisory Patent Examiner.Art Unit 2116

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QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO CA 92121

MAILED
JAN 31 2012
OFFICE OF PETITIONS

In re Patent No. 8,045,021	:
Cheung et al.	: DECISION ON REQUEST FOR
Issue Date: October 25, 2011	: RECONSIDERATION OF
Application No. 11/327,241	: PATENT TERM ADJUSTMENT
Filed: January 5, 2006	: AND NOTICE OF INTENT
Attorney Docket No. 051315	: TO ISSUE CERTIFICATE OF
Title: MEMORY ORGANIZATIONAL	: CORRECTION
SCHEME AND CONTROLLER	:
ARCHITECTURE FOR IMAGE AND	:
VIDEO PROCESSING	:

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 thirty-one (1,031) days. Patentees dispute the 33 and 2 day reductions.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED**.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificate of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand thirty-one (1,031)** days.

Telephone inquiries specific to this matter should be directed to Petitions Attorney, Charlema Grant at (571) 272-3215.

Charlema Grant
Attorney Advisor
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 8,045,021 B2

DATED : October 25, 2011 **DRAFT**

INVENTOR(S) : Cheung 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 996 days

Delete the phrase "by 996 days" and insert – by 1031 days--

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20100802

DATE : August 02, 2010

TO SPE OF : ART UNIT 2839

SUBJECT : Request for Certificate of Correction on Patent No.: 7,332,825

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:

Changes are acceptable.

/T C Patel/
Supervisory Patent Examiner.Art Unit 2839

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

MAILED

OCT 25 2010

OFFICE OF PETITIONS

In re Application of :
Kim :
Application No.11/327,752 : ON APPLICATION FOR
Filed: January 6, 2006 : PATENT TERM ADJUSTMENT
Atty Docket No. 17044US02 :

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 October 4, 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, seven (1,007) days, not six hundred and twenty-five (625) 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

[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

patent within 3 years after the actual filing date of the application in the United States, not including –

(i) any time consumed by continued examination of the application requested by the applicant under section 132(b);

It is further noted that a Request for Continued Examination (RCE) was filed in this application on March 9, 2010.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Senior Petitions Attorney
Office of Petitions

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CHAUNCY GODWIN
1168 E. MARIPOSA STREET
ALTADENA, CA 91001

MAILED
MAY 11 2011
OFFICE OF PETITIONS

In re Application of	:	
Chauncy Godwin	:	
Application No. 11/327,785	:	ON PETITION
Filed: January 6, 2006	:	
Attorney Docket No.: None	:	

This is a decision on the petition under 37 CFR 1.137(b), filed April 4, 2011, to revive the above-identified application.

There is no indication that the petition is signed by a registered patent practitioner of record. However, in accordance with 37 CFR 1.34, the signature of Mr. Phillip Bennett 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. Bennett desires to receive correspondence regarding this file, the appropriate power of attorney documents must be submitted. A courtesy copy of this decision is being mailed to Mr. Bennett, the petitioner herein. However, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

The 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 reply in a timely manner to the non-final Office action mailed, December 2, 2008, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on March 3, 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(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item 1.

While petitioner indicates the proposed reply is in the form of a continuation application, a review of the record fails to uncover a continuation application under 37 CFR 1.53. If petitioner is aware that a new continuing application has, in fact, been processed and assigned a new application number, petitioner must promptly disclose the continuing application number in the renewed petition to revive.

Petitioner is also reminded that when a continuing application is filed in lieu of a reply in the abandoned application, the petition to revive should include a letter of express abandonment of the prior application, conditioned upon the granting of the petition to revive and a filing date to the continuing application.

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)

Any questions concerning this matter may be directed to the undersigned at (571) 272-3204.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: PHILLIP BENNETT
KNOBBE MARTENS OLSON AND BEAR
2040 MAIN STREET 14TH FLOOR
IRVINE, CA 92614

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAILED
JUL 22 2011
OFFICE OF PETITIONS

CHAUNCY GODWIN
1168 E. MARIPOSA STREET
ALTADENA, CA 91001

In re Application of	:	
Chauncy Godwin	:	
Application No. 11/327,785	:	ON PETITION
Filed: January 6, 2006	:	
Attorney Docket No.: None	:	

This is a decision on the renewed petition, filed July 8, 2011, 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 timely file a reply to the non-final Office action of December 2, 2008. A Notice of Abandonment was mailed on June 9, 2009. On April 4, 2011, a petition to revive was filed; however, the petition was dismissed in a decision mailed May 11, 2011. In response, on July 8, 2011, the present petition was filed.

This application has been abandoned for an extended period of time. The U.S. Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." *See* Changes to Patent Practice and Procedure, 62 Fed. Reg., at 53160 and 53178; 1203 Off. Gaz. Pat. Office, at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the U.S. Patent and Trademark Office).

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) an adequate statement of unintentional delay[1].

[1] 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. While the statement is not made by an attorney of record, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of continuing application No. 13/174,357, filed June 30, 2011.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

ExxonMobil Research and Engineering Company
P.O. Box 900
Annandale NJ 08801-0900

JAN 26 2011

In re Application of		
MARTIN, GREGORY M. et al.	:	
Application No.: 11/327,790	:	DECISION ON
Filing or 371(c) Date: January 9, 2006	:	PETITION
Attorney Docket Number: RDH-0523	:	

This is a decision on the Petition to Withdraw Holding of Abandonment received in the United States Patent and Trademark Office (USPTO) on November 1, 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 July 2, 2010 which set forth a three (3) month statutory period of reply. The Notice of Abandonment was mailed on October 15, 2010.

Petitioner states that the issue fee transmittal and payment were timely filed via the USPTO on September 1, 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

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FISH & RICHARDSON P.C.
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

MAILED

SEP 13 2010

OFFICE OF PETITIONS

In re Application of
Gharbaoui, et al.
Application No. 11/327,923
Filed: January 9, 2006
Attorney Docket No. 20750-014001 095.US2REG

: DECISION ON REQUEST
: FOR RECONSDIERATION
: OF PATENT TERM
: ADJUSTMENT

This is a decision on the APPLICATION FOR PATENT TERM ADJUSTMENT PURSUANT TO 37 C.F.R. § 1.705(b), filed June 22, 2010. Applicants request that the Office reconsider the determination of Patent Term Adjustment (PTA) that accompanied the Notice of Allowance. Applicants request that the initial determination of patent term adjustment be corrected from five hundred and eighty-nine days (589) days to six hundred and eighty-one (681).

The request for reconsideration of patent term adjustment is DISMISSED.

BACKGROUND

On March 23, 2010, the Office mailed a Determination of Patent Term Adjustment under 35 U.S.C. § 154(b) in the above-identified application. Applicants were advised that the patent term adjustment to date was 589 days. Pursuant to 37 CFR 1.704(c)(8), the period of adjustment of patent term was reduced by 92 days[1], respectively.

In response, applicants timely filed the instant request for reconsideration of the patent term adjustment. Applicants dispute the 92 day reduction to the patent term adjustment and request that the patent term adjustment be corrected to 681 days. Specifically, applicants state that:

[1] An Information Disclosure Statement was filed on April 10, 2009, 92 days after the response to the non-final Office action, was filed on January 7, 2009.

> Applicants filed an Information Disclosure Statement ("IDS") on April 10, 2009, subsequent to a reply filed on January 8, 2009. Applicants were accorded a delay of 92 days for a supplemental response under 37 CFR 1.704(c)(8). Applicants respectfully assert that the IDS submitted on this date was filed in compliance with 37 CFR 1.704(d) as it was compliant with 37 CFR 1.97 and 1.98, was accompanied by a statement that each item of information was first cited in a communication from a foreign patent office in a counterpart application and this communication was not received by any individual designated in § [56(c)] more than thirty days prior to the filing of the IDS. Applicants herein confirm that assertion. As such, applicants respectfully submit that the IDS should not have been considered a failure to engage in reasonable efforts to conclude prosecution of the application under 37 CFR 1.704(c)(8)…

Excerpt taken from APPLICATION FOR PATENT TERM ADJUSTMENT PURSUANT TO 37 C.F.R. § 1.705(b), filed June 22, 2010, *p. 2.*

RELEVANT STATUTES AND REGULATIONS

37 CFR 1.704(c)(8) provides that:

(c) Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:

(8) Submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the initial reply was filed and ending on the date the supplemental reply or other such paper was filed.

37 CFR 1.704(d) provides that:

(d) A paper containing only an information disclosure statement in compliance with §§ 1.97 and 1.98 will not be considered a failure to engage in reasonable efforts to

conclude prosecution (processing or examination) of the application under paragraphs (c)(6), (c)(8), (c)(9), or (c)(10) of this section if it is accompanied by a statement that each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in § 1.56(c) more than thirty days prior to the filing of the information disclosure statement. This thirty-day period is not extendable.

OPINION

As to the IDS filed April 10, 2009, it is undisputed that the applicants filed the IDS 92 days after the response to the final Office action was filed on January 8, 2009. The record does not support a conclusion that the examiner expressly requested the Information Disclosure Statement. A review of the IDS filed April 8, 2009, reveals that it did not include the proper statement under 1.704(d). Rather, the certification statement states:

> On information and belief, each of the Russian foreign patent documents (documents 9-14) contained in this statement was first cited in a communication from a foreign patent office in the counterpart foreign application (Georgia). Documents 1-6 are merely English language counterpart applications to the Russian foreign patent documents, submitted to comply with the requirements of 37 CFR 1.98(a)(3). Further, on information and belief, two Russian applications (RU2260007 and RU2243222), corresponding to the counterpart English language documents 7-8 were first cited in a communication from a foreign patent office in the counterpart Georgian patent application.
>
> On information and belief, this communication was received by the undersigned representative on March 24, 2009 and by the Georgian foreign counsel on March 11, 2009 and, therefore was not received more than thirty days prior to the information disclosure statement.

Excerpt taken from Information Disclosure Statement, filed April 10, 2009, p. 1.

However, the statement required under 37 CFR 1.704(d) must state that:

> [E]ach item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in § 1.56(c) more than thirty days prior to the filing of the information disclosure statement. This thirty-day period is not extendable.

The statement accompanying the IDS filed April 10, 2009, does not contain the language required by 37 CFR 1.704(d). Accordingly, pursuant to 37 CFR 1.704(c)(8), it is concluded that the period of reduction of 92 days is merited and will remain.

CONCLUSION

In view thereof, the petition is DISMISSED.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application file is being forwarded to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded[2]).

Telephone inquiries regarding this matter should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Senior Petitions Attorney
Office of Petitions

---

[2] See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR ' 1.703(f). See also Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule, 69 Fed. Reg. 21704 (April 22, 2004).

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Alexandria, VA 22313-1450
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PAUL W. MARTIN
NCR CORPORATION, LAW DEPT.
3097 SATELLITE BLVD., 2nd FLOOR
DULUTH GA 30096

MAILED

OCT 13 2011

OFFICE OF PETITIONS

In re Application of
Andrew Hamilton et al.
Application No. 11/327,943
Filed: January 9, 2006
Attorney Docket No: 12411

ON PETITION

This is a decision on the petition filed September 29, 2011 under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-Final Office Action mailed November 23, 2010. A shortened statutory period of three months was set for replying to the non-Final Office Action. No response having been timely filed, this application became abandoned February 24, 2011. Accordingly, a Notice of Abandonment was sent via Electronic Notification on June 23, 2011.

This matter is being referred to Technology Center 3695 for appropriate action on the amendment filed September 29, 2011.

Telephone inquiries concerning this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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[1]Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Director may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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CONLEY ROSE, P.C.
David A. Rose
P. O. BOX 3267
HOUSTON TX 77253-3267

MAILED

APR 19 2011

OFFICE OF PETITIONS

In re Application of

BASHEN, Janet E. et al.
Application No. 11/328,007
Filed: January 09, 2006
Attorney Docket No. 2810-00101

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 March 30, 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 Collin Rose on behalf of all attorneys of record who are associated with customer No. 23505. All attorneys/agents associated with the Customer Number 23505 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Janet Bashen at the address indicated below.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions

cc: **JANET BASHEN**
1616 SOUTH VOSS
SUITE 300
HOUSTON TX 77507

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.
11/328,216	01/10/2006	Takahiro Niwa	108075-00178	4631

4372 7590 09/23/2010
ARENT FOX LLP
1050 CONNECTICUT AVENUE, N.W.
SUITE 400
WASHINGTON, DC 20036

EXAMINER
SURYAWANSHI, SURESH

ART UNIT	PAPER NUMBER
2115	

NOTIFICATION DATE	DELIVERY MODE
09/23/2010	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

DCIPDocket@arentfox.com
IPMatters@arentfox.com
Patent_Mail@arentfox.com

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COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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Wan-Ching Montfort
Arent Fox LLP
1050 Connecticut Avenue, N.W.
Suite 400
Washington, D.C. 20036-5339

In re Application of:
Takahiro NIWA et al.
Application No. 11/328,216
Filed: January 10, 2006
For: HOST APPARATUS, DEVICE, AND METHOD FOR CONTROLLING COMMUNICATION SYSTEM

DECISION ON PETITION UNDER 37 CFR § 1.48(B)

This is a decision on the petition, filed on 11 December 2009, under 37 C.F.R. § 1.48(b) to correct the inventorship for the above-identified application.

The petition is **DENIED**.

MPEP 201.03 states in part:

> Correction of inventorship in **an application** is permitted by amendment under 35 U.S.C. § 116, which is implemented by 37 CFR § 1.48. **The utilization of a request under 37 CFR § 1.48 will generally correct the inventorship in the application** in which it is filed... [Emphasis added.]

37 CFR § 1.324 states in part:

> (a) Whenever through error a person is named in an issued patent as the inventor ...
>
> (b) Any request to correct inventorship of a patent pursuant to paragraph (a) of this section must be accompanied by:
>
> (1) Where one or more persons are being added, a statement from each person who is being added as an inventor that the inventorship error occurred without any deceptive intention on his or her part;
>
> (2) A statement from the current named inventors who have not submitted a statement under paragraph (b)(1) of this section either

agreeing to the change of inventorship or stating that they have no disagreement in regard to the requested change;

(3) A statement from all assignees of the parties submitting a statement under paragraphs (b)(1) and (b)(2) of this section agreeing to the change of inventorship in the patent, which statement must comply with the requirements of § 3.73(b) of this chapter; and

(4) The fee set forth in § 1.20(b).

A review of the application indicates that the instant application was issued as U.S. Patent No. 7,631,200 on 08 December 2009 which is prior to the filing date of the petition. Thus, the petition to correct inventorship under 37 CFR § 1.48(b) is not appropriated, rather applicant may consider to file a petition to correct inventorship under 37 CFR § 1.324.

For the above stated reason, the petition is DENIED and no correction has been made in this application.

/Vincent N. Trans/

Vincent N. Trans, SPRE/QAS
Technology Center 2100
Computer Architecture and Software
571-272-3613

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SIEMENS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
170 WOOD AVENUE SOUTH
ISELIN NJ 08830

MAILED

FEB 08 2011

OFFICE OF PETITIONS

In re Application of	:	
Tiantian Zhang et al.	:	
Application No. 11/328,353	:	DECISION ON PETITION
Filed: January 9, 2006	:	
Attorney Docket No. 2005P01622 US01	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 20, 2009, 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, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed July 28, 2009. Accordingly, the date of abandonment of this application is October 29, 2009. A Notice of Abandonment was mailed on November 10, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $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

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United States Patent and Trademark Office
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MAILED
MAY 23 2011
OFFICE OF PETITIONS

LAW OFFICES OF CHARLES GUENZER
P O BOX 60729
PALO ALTO CA 94306

In re Application of	:	
James E. Boyle et al.	:	
Application No. 11/328,438	:	DECISION ON PETITION
Filed: January 09, 2006	:	
Attorney Docket No. **3816.14**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 12, 2011, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before March 23, 2011, as required by the Notice of Allowance and Fee(s) Due, mailed December 23, 2010. Accordingly, the date of abandonment of this application is March 24, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $300 and the publication fee of $1510, (2) the petition fee of 1620; and (3) a proper statement of unintentional delay. Accordingly, the Issue Fee is accepted as having been 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 Tredelle Jackson at (571) 272-2783.

This application is being referred to the Office of Data Management for processing into a patent.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

cc: **CHARLES M. VIVIAN**
41 BROOK STREET
MANCHESTER NH 03104

UNITED STATES PATENT AND TRADEMARK OFFICE

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NAVAL MEDICAL RESEARCH CENTER
ATTN: (CODE 00L)
503 ROBERT GRANT AVENUE
SILVER SPRING MD 20910-7500

MAILED
MAY 18 2011
OFFICE OF PETITIONS

In re Application of :
Malford E. CULLUM et al. :
Application No. 11/328,486 :
Filed: January 4, 2006 :
Attorney Docket No. NC 97,782 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed April 19, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed October 7, 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 above-identified application became abandoned on January 8, 2009.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee of $1620; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of October 7, 2008 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to David A. Bucci at (571) 272-7099.

The application file is being referred to Technology Center AU 1645 for appropriate action on the concurrently filed amendment.

David A. Bucci
Petitions Examiner
Office of Petitions

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MINTZ LEVIN COHN FERRIS GLOVSKY AND POPEO, P.C.
ONE FINANCIAL CENTER
BOSTON, MA 02111

MAILED
MAY 25 2011
OFFICE OF PETITIONS

In re Application of	:	
John B. Simpson	:	
Application No. 11/328,516	:	DECISION ON PETITION
Filed: January 10, 2006	:	TO WITHDRAW
Attorney Docket No.: 34668-501011US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 28, 2011.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request is filed by Sean M. Coughlin on behalf of all the practitioners of record.

The Office no longer accepts an address change to the new practitioner identified in the request, absent the filing of a power of attorney to the new representative. The Office will, however, change the correspondence address of record to the most current address provided for (1) the intervening assignee of the entire interest or (2) the first named inventor.

The request to withdraw from record cannot be approved at this time, since the correspondence address provided is not the intervening assignee of the entire interest or the first named inventor.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-3210. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Sean M. Coughlin
Mintz Levin Cohn Ferris Glovsky and Popeo, P.C.
3580 Carmel Mountain Road, Suite 300
San Diego, CA 92130-6768

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ONE FINANCIAL CENTER
BOSTON MA 02111

MAILED
JUL 25 2011
OFFICE OF PETITIONS

In re Application of	:	
John B. Simpson	:	
Application No. 11/328,516	:	DECISION ON PETITION
Filed: January 10, 2006	:	TO WITHDRAW
Attorney Docket No. 34668-501011US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 12, 2011.

The request is **APPROVED**.

The request was signed by Fred C. Hernandez on behalf of the practitioners of record associated with Customer Number 23980.

Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to inventor John B. Simpson at the address indicated below.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: John B. Simpson
3033 Campus Drive
Plymouth, MN 55441

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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
11/328,516	01/10/2006	John B. Simpson	34668-501011US

CONFIRMATION NO. 3788

POWER OF ATTORNEY NOTICE

23980
MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO, P.C
One Financial Center
BOSTON, MA 02111

OC000000048864728

Date Mailed: 07/25/2011

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/12/2011.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/idingle/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/328,516	01/10/2006	John B. Simpson	34668-501011US

CONFIRMATION NO. 3788

POA ACCEPTANCE LETTER

John B. Simpson
3033 Campus Drive
Plymouth, MN 55441

OC000000048864729

Date Mailed: 07/25/2011

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/12/2011.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

/idingle/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Patent No. 7257320
Issue Date: August 14,2007
Application No. 11328520
Filed: January 9,2006
Attorney Docket No. 9817-000191

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed September 21,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of September 21,2011 . 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)
7,257,320	2007-08-14	11/328,520	2006-01-09	7578W-500531

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
◉	3 ½ year	(1551)	○	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Kevin Pumm/	Date (YYYY-MM-DD)	2011-09-21
Name	Kevin Pumm	Registration Number	49046

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.

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	11328522
Filing Date	10-Jan-2006
First Named Inventor	Henry Smith
Art Unit	1644
Examiner Name	MICHAEL SZPERKA
Attorney Docket Number	JSMIT-006A
Title	Treatment of pre-eclampsia in pregnant women using targeted apheresis

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.

Reply Fee

☒ A reply in the form of a continuing application with serial number 12415585 has been previously filed on 03-31-2009

Terminal disclaimer with disclaimer fee

☒ Terminal disclaimer and fee are not required

☐ I certify, in accordance with 37 CFR 1.4(d)(4) that the terminal disclaimer and fee have already been filed in the above-identified application on

☐ Terminal disclaimer and fee 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	/MAN/
Name	MATTHEW A. NEWBOLES
Registration Number	36224

UNITED STATES 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 6,2011

In re Application of :

DECISION ON PETITION

Henry Smith

Application No : 11328522

Filed : 10-Jan-2006

Attorney Docket No : JSMIT-006A

This is an electronic decision on the petition under 37 CFR 1.137(b), filed October 6,2011 , 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 an Office action. The date of abandonment is the day after the expiration date of the period set for reply in the Office action or action plus any extensions of time actually obtained.

The electronic petition satisfies the requirements of 37 CFR 1.137(b) in that the practitioner has supplied (1) the reply in the form of a continuing application, (2) the petition fee under 37 CFR 1.17(m), 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. 12415585 filed on 03-31-2009

Telephone inquiries concerning this decision should be directed to the Patent Electronic Business Center (EBC) at 866-217-9197.

Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JOSEPH S. TRIPOLI
THOMSON LICENSING INC.
2 INDEPENDENCE WAY
P.O. BOX 5312
PRINCETON NJ 08543-5312

MAILED

SEP 23 2011

OFFICE OF PETITIONS

In re Application of :
Frank Dumont et al. :
Application No. 11/328,561 : DECISION ON PETITION
Filed: January 10, 2006 :
Attorney Docket No. **PA050005** :

This is a decision on the petition, filed September 9, 2011, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision should be filed within two (2) months from the mail date of this decision. *Note* 37 CFR 1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 CFR 1.181 to Withdraw the Holding of Abandonment."

This application was held abandoned for failure to timely pay the issue and publication fees on or before July 26, 2011, as required by the Notice of Allowance and Fee(s) Due (Notice), mailed April 26, 2011. A Notice of Abandonment was mailed August 9, 2011.

Petitioner asserts that the Notice dated April 26, 2011, was not received.

A review of the written record indicates no irregularity in the mailing of the Notice, and, in the absence of any irregularity, there is a strong presumption that the Notice was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Notice was not in fact received. In this regard, the showing required to establish the failure to receive the Notice must consist of the following:

(1) a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.

(2) Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received.

(3) A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required. A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the **master docket report** showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question. See MPEP §711.03(c)(I)(A).

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The petition fails to satisfy item (3) from the above-stated requirements.

The evidence submitted with the instant petition does not appear to be the master docket. Therefore, petitioner needs to submit a copy of the **master docket** report showing **all** replies docketed **for a date** of three months from April 26, 2011, mail date of the nonreceived Office action as documentary proof of nonreceipt.

Accordingly, absent the required evidence to establish nonreceipt of the Notice of Allowance, the petition requesting withdrawal of the holding of abandonment cannot be granted at this time.

If petitioner cannot supply the evidence necessary to withdraw the holding of abandonment, or simply does not wish to, petitioner should consider filing a petition under 37 CFR 1.137(b) stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the $810 petition fee.

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 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).

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.

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 JoAnne Burke at (571) 272-4584.

/ Ramesh Krishnamurthy /
Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

cc: Thomson Licensing LLC
Patent Operations
P.O. Box 5312
Princeton, NJ 08543-5312

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JOSEPH S. TRIPOLI
THOMSON LICENSING INC.
2 INDEPENDENCE WAY
P.O. BOX 5312
PRINCETON NJ 08543-5312

MAILED

DEC 19 2011

OFFICE OF PETITIONS

In re Application of :
Frank Dumont et al. :
Application No. 11/328,561 : DECISION ON PETITION
Filed: January 10, 2006 :
Attorney Docket No. **PA050005** :

This is a decision on the renewed petition, filed November 8, 2011, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely pay the issue and publication fees on or before July 26, 2011, as required by the Notice of Allowance and Fee(s) Due (Notice), mailed April 26, 2011. A Notice of Abandonment was mailed August 9, 2011.

Petitioner asserts that the Notice dated April 26, 2011, was not received.

A review of the written record indicates no irregularity in the mailing of the Notice, and, in the absence of any irregularity, there is a strong presumption that the Notice was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Notice was not in fact received. In this regard, the showing required to establish the failure to receive the Notice must consist of the following:

(1) a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application

number, attorney docket number, the mail date of the Office action and the due date for the response.

(2) Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received.

(3) A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required. A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the **master docket report** showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question. See MPEP §711.03(c)(I)(A).

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The petition 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 concerning this decision should be directed to JoAnne Burke at 571-272-4584.

This application is being referred to the Technology Center Art Unit 2484 technical support staff for **re-mailing** the Notice of Allowance and Fees Due of April 26, 2011. The period for reply will run from the mailing date of the Office action.

/Ramesh Krishnamurthy/
Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7,104,877	2006-09-12	11/328,602	2006-01-11	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	● 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

○ An attorney or agent registered to practice before the Patent and Trademark Office

● A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Sole Patentee			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature.			
Signature	/Mark Terry/	Date (YYYY-MM-DD)	2012-02-23
Name	Mark Terry		

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. 7104877
Issue Date: September 12,2006
Application No. 11328602
Filed: January 11,2006
Attorney Docket No. 5932

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed February 23,2012 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of February 23,2012 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110119A

DATE : January 19, 2011

TO SPE OF : ART UNIT 3739

SUBJECT : Request for Certificate of Correction on Patent No.: 7758495

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:

Amendment previously entered by applicant and missed by the printer. Approved.

/LINDA C DVORAK/
Supervisory Patent Examiner.Art Unit 3739

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

LEYDIG, VOIT AND MAYER
TWO PRUDENTIAL PLAZA, SUITE 4900
180 NORTH STETSON AVENUE
CHICAGO IL 60601

MAILED

DEC 23 2010

OFFICE OF PETITIONS

In re Patent No. 7,684,221	:	
Issued: March 23, 2010	:	
Application No. 11/328,616	:	ON PETITION
Filed: January 10, 2006	:	
Attorney Docket No. 810305 (20799/0204506-US0)	:	

This is a decision on the request for issuance of a duplicate Letters Patent for the instant application, filed December 7, 2010, which will properly be treated under 37 CFR 1.182.

The petition is **GRANTED**.

The Publishing Division is directed to issue a duplicate Letters Patent.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3206. Any questions concerning issuance of the duplicate Letters Patent should be directed to Ollie Person at (703) 756-1555 or Kimberly Terrell at (703) 756-1568.

A copy of this decision is being forwarded to Publishing Division for issuance of a duplicate Letters Patent.

Liana Walsh
Petitions Examiner
Office of Petitions

cc: Ollie Person, P/ODM, RSQ 9D30-A (FAX 571-270-9764)
Kimberly Terrell, P/ODM, RSQ 9D33 (FAX 571-270-9958)

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

COOPER & DUNHAM, LLP
30 ROCKEFELLER PLAZA
20TH FLOOR
NEW YORK, NY 10112

MAILED
SEP 28 2011
OFFICE OF PETITIONS

In re Application of :
Hiroshi Higuchi :
Application No. 11/328,665 : ON PETITION
Filed: January 10, 2006 :
Attorney Docket No. 2271/75267 :

This is a decision on the petition filed September 8, 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 formal drawings in a timely manner in reply to the Notice of Allowance mailed March 31, 2011, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on July 1, 2011.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of formal drawings; (2) the petition fee; and (3) the required statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

This matter is being referred to the Office of Data Management for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

NIXON PEABODY LLP - PATENT
GROUP
1100 CLINTON SQUARE
ROCHESTER NY 14604

MAILED
SEP 27 2010
OFFICE OF PETITIONS

In re Patent of Grande et al. :
Patent No. 7,736,592 :
Issued: June 15, 2010 :
Application No. 11/328,697 : ON APPLICATION FOR
Filed: January 10, 2006 : PATENT TERM ADJUSTMENT
Atty Docket No. 33654/1021 :

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b), filed April 29, 2010. Applicants submit that the correct patent term adjustment to be indicated on the patent is at least one thousand fifty (1050) days, not six hundred eight (608) 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**.

At the time the petition was filed, knowledge of the patent's date of issuance was required to calculate the amount of additional patent term patentees were entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). The computer will not undertake a § 1.702(b) calculation until the actual date of issuance of a 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 a patent has been determined. As such, the Office could not make a

determination on the correctness of the patent term adjustment until the patent 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 was premature. Accordingly, it is appropriate to dismiss as premature such a request.

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).

It is noted that this application matured in U.S. Patent No. 7,736,592 on June 15, 2010 with a patent term extension of 1097 days. Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : April 10, 2012.

TO SPE OF : ART UNIT 1626.
SUBJECT : Request for Certificate of Correction for Appl. No.: 11/328748 Patent No.: 7745490

Co f C mailroom date: 7-14-10

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Note: _____

Magdalene Talley
Certificates of Correction Branch
571-272-0423 _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

XApproved	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

/Joseph K. McKane/ 1626

SPE **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

MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

MAILED

DEC 06 2011

OFFICE OF PETITIONS

In re Application :
Rodgers :
Application No. 11/328,877 : PATENT TERM ADJUSTMENT
Filing or 371(c) Date: January 10, 2006 :
Dkt. No.: 16780US02 :

This is in response to the application for patent term adjustment under 37 CFR 1.705(b), filed October 14, 2011.

Applicant submits that the correct patent term adjustment to be indicated on the patent is 376 days, not 263 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction on the basis that the application is entitled to further adjustment with respect to 37 CFR 1.702(e) in view of the 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).

Insofar as the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to 37 CFR 1.702(e), the application for patent term adjustment under 37 CFR 1.705(b) is DISMISSED as PREMATURE.

Determinations of adjustment under 37 CFR 1.702(e) are subject to final calculation of patent term adjustment and are reflected in the Issue Notification. The computer will not undertake the § 1.702(e) 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 1.702(b) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(e) 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(e) to be timely if the request for reconsideration is

filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

Receipt is hereby acknowledged of the required patent term adjustment application fee under 37 CFR 1.705(b) of $200.00. See, 37 CFR 1.18(e). As the fee is required, the request for refund is dismissed.

However, any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and **must** include payment of the required fee under 37 CFR 1.18(e).

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 file is being forwarded to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

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[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 02-18-12

TO SPE OF : ART UNIT 2618

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/328994 Patent No.: 7738848

CofC mailroom date: 09-27-11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Note: _____

_____

Angela Green 571.272.9005

CofC Branch 703-756-1814

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: No New matter.

SPE **Art Unit**

DUC M. NGUYEN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 01/09/11

TO SPE OF : ART UNIT 1786

SUBJECT : Request for Certificate of Correction for Appl. No.: 11329181 Patent No.: 7544426

CofC mailroom date: 01/03/12

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580
[redacted]

Note: **Should the changes to claim 1 be approved?**

Lamonte Newsome

Certificates of Correction Branch 571-272-3421

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

X **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

/Jennifer A. Chriss/,
SPE, Art Unit 1786

UNITED STATES PATENT AND TRADEMARK OFFICE

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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.
11/329,293	01/10/2006	Philip E. Thorpe	4001.002298/UTSD:0549-2 U	6839

52101 7590 07/25/2011
PEREGRINE PHARMACEUTICALS, INC.
5353 WEST ALABAMA
SUITE 306
HOUSTON, TX 77056

EXAMINER
BRISTOL, LYNN ANNE

ART UNIT	PAPER NUMBER
1643	

MAIL DATE	DELIVERY MODE
07/25/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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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JUL 25 2011

PEREGRINE PHARMACEUTICALS, INC.
5353 WEST ALABAMA
SUITE 306
HOUSTON TX 77056

In re Application of:	:
Thorpe et al.	: PETITION DECISION
Serial No.: 11/329,293	:
Filed: January 10, 2006	:
Attorney Docket No.:	
4001.002298/UTSD:0549-2 U	

This is in response to the petition under 37 CFR § 1.181, filed July 20, 2011, requesting that the objection to the claims in the final Office action of January 20, 2011 be withdrawn.

Applicants' arguments have been accorded careful consideration but they are not persuasive for the following reasons. The petition was untimely and therefore the merits of such won't be considered. Applicants should note that 37 CFR 1.181(f) indicates that any petition not filed within two months of the mailing date of the action from which relief is requested may be dismissed as untimely, that action being the final rejection of January 20, 2011. If the applicant wants consideration after the two months they should file a petition, and corresponding petition fee for such, under 37 CFR 1.183 and ask for a suspension of the Rule 181 and ask that consideration be made later than the 2 months.

Accordingly, the petition filed under 37 CFR 1. 181 is **DISMISSED** as untimely.

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.

George C. Elliott, for
Jacqueline Stone
Director, Technology Center 1600

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.
11/329,293	01/10/2006	Philip E. Thorpe	4001.002298/UTSD:0549-2 U	6839

52101 7590 08/17/2011
PEREGRINE PHARMACEUTICALS, INC.
5353 WEST ALABAMA
SUITE 306
HOUSTON, TX 77056

EXAMINER
BRISTOL, LYNN ANNE

ART UNIT	PAPER NUMBER
1643	

MAIL DATE	DELIVERY MODE
08/17/2011	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.

AUG 1 7 2011

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Shelley P. M. Fussey Ph.D.
PEREGRINE PHARMACEUTICALS, INC.
5353 WEST ALABAMA
SUITE 306
HOUSTON TX 77056

In re Application of	:
Thorpe et al	:Decision on Petition
Serial No.: 11/329.293	:
Filed : 10 January 2006	:
Attorney Docket No.: 4001.002298	:

This letter is in response to the Petition under 37 C.F.R. 1.144 filed on 20 July 2011 requesting reconsideration of the restriction requirement mailed13 February 2008.

BACKGROUND

This application was filed as a national application under 35 U.S.C. 111(a) and as such is entitled to restriction practice under Chapter 800.

On 21 May 2007, the examiner set forth a first restriction requirement which divided claims into 10 groups and required further elections of species.

On 26 November 2007, applicants filed an amendment and elected Group III, with traverse.

On 13 February 2008, the examiner set forth a second restriction requirement which divided claims into 10 groups and required further elections of species.

On 18 July 2008, applicants filed an amendment and elected Group X, with traverse.

On 28 October 2008 and 5 August 2009, the examiner issued a non-final and then final Office action, respectively, on the elected invention.

On 9 October 2009, applicants filed a petition to have finality withdrawn. No formal petition decision mailed prepared, instead the examiner communicated to applicants via telephone that finality was withdrawn.

On 16 April 2010 and 20 January 2011, the examiner issued a non-final and then final Office action, respectively, on the elected invention.

On 20 July 2011, applicants filed two petitions. The first petition was directed towards the objection to claims 54 and 73. This petition was dismissed as untimely on 25 July 2011. The second petition was filed under 37 CFR 1.144 and is being decided in this letter.

DISCUSSION

The file history and petition have been considered carefully.

At the onset, it is noticed that the record is not clear because not all claims, such as claim 15, are accounted for on the PTOL-326 form or in the body of the Office action. Moreover, claim 16 is listed as both withdrawn and rejected.

Disposition of Claims

4)☒ Claim(s) *1-5,9,11-17,19-23 and 39-88* is/are pending in the application.
4a) Of the above claim(s) *1-3,16,22 and 39-53* is/are withdrawn from consideration.
5)☐ Claim(s) _____ is/are allowed.
6)☒ Claim(s) *4,5,9,11-14,16,17,19-21,23,54-59,63-66,68 and 73* is/are rejected.

This is counter to MPEP 814, which states that:

> "The examiner must provide a clear and detailed record of the restriction requirement to provide a clear demarcation between restricted inventions so that it can be determined whether inventions claimed in a continuing application are consonant with the restriction requirement and therefore subject to the prohibition against double patenting rejections under 35 U.S.C. 121. Geneva Pharms. Inc. v. GlaxoSmithKline PLC, 349 F.3d 1373, 1381, 68 USPQ2d 1865, 1871 (Fed. Cir. 2003)."

Next, it is noted that the examiner in the last two actions on the merits has objected to claims 54 and 73 for being improper dependent form for failing to further limit the subject matter of a previous claim. However a review of the most recent set of claims filed 4 May 2009 shows that claims 54 and 73 are written as independent claims. For these reasons, this objection is not warranted, nor is it clear that the examiner considered the claims as currently pending for preparation of the Office actions dated 16 April 2010 and 20 January 2011.

Turning now to the merits of the petition under 37 CFR 1.144, applicants request that claims which have been withdrawn from examination be examined on the merits.

Currently pending independent claim 54 is directed to a kit comprising a first antibody that binds to aminophospholipid and either (a) a detectably labeled antibody or (b) a second anti-cancer antibody. Dependent claim 55 specifies that the first antibody binds to a type of

aminophospholipid called phosphatidylethanolamine (PE). Dependent claim 56 specifies that the first antibody binds to type of aminophospholipid called phosphatidylserine (PS). Claim 59 recites a list of anti-cancer agents. Among others, claims 54-56 and 59 were examined on the merits. In contrast, for example, dependent claim 49 was withdrawn from consideration as it depends upon examined independent claim 68 and recites a first antibody that binds to PE and to PS.

The petition provides a further comparison of the inventions recited by the independent claims.

- Independent claim 1 recites a first antibody that binds to aminophospholipid complex and a second anti-cancer agent.
- Independent claim 43 recites a first antibody that binds to aminophospholipid complex and a second anti-cancer agent.
- Independent claim 48 recites a first antibody that binds to PE and a second antibody.
- Independent claims 67-70 recites a first antibody that binds to aminophospholipid complex and a second anti-cancer agent.
- Independent claims 71-72 recites a first antibody that binds to PE (alone or complexed) and a second anti-cancer agent.
- Independent claim 74 recites a first antibody that binds to aminophospholipid complex and a second detectably labeled antibody.

Of these, only independent claims 54 and 68 were examined on the merits. Independent claims 1, 43, 48, 67, 69-72 and 74 and claims which depended upon these, were withdrawn from examination. Applicant's assertions are correct in that the subject matter of the examined claims encompasses or is encompassed by the subject matter of the withdrawn claims.

Further, from a review of the restriction requirement, it appears that single claims were placed into two or more groups, based upon limitations recited in dependent claims. For example, claim 1 is placed into two groups depending upon whether the first antibody binds PE or PS. However, claim 1 as pending at time of the second restriction requirement did not recite either of these limitations, and it was withdrawn from consideration.

> 1. (Previously Presented) A kit comprising, in a pharmaceutically acceptable form, biologically effective amounts of at least a first anti-cancer agent, wherein said at least a first anti-cancer agent is at least a first antibody, or an antigen-binding fragment thereof, that binds to an aminophospholipid; and at least a second anti-cancer agent other than said at least a first antibody, or an antigen-binding fragment thereof, that binds to an aminophospholipid.

In contrast, claims 55 and 56 include similar limitations and they were examined on the merits.

MPEP 804.01cautions the Office against making "erroneous requirements for restrictions where the claims define essentially the same invention in different language and which, if acquiesced in, might result in the issuance of several patents for the same invention."

Finally, MPEP 803.02 states that

> "If the members of the Markush group are sufficiently few in number or so closely related that a search and examination of the entire claim can be made without serious burden, the examiner must examine all the members of the Markush group in the claim on the merits, even though they may be directed to independent and distinct inventions."

In this instance, the number of embodiments recited in the alternative of examined claims is few in number (the second antibody is either (a) a detectably labeled antibody or (b) a second anti-cancer antibody; the species of aminophospholipid is either PE or PS). Here, given the facts of this application, it would not present a serious burden to concurrently examine the claims.

DECISION

For these reasons, the petition filed under 37 CFR 1.144 on 20 July 2011 is GRANTED as follows.

The restriction requirements have been withdrawn. The claims are rejoined into one group for examination.

The finality of the Office action mailed 20 January 2011 has been withdrawn.

The objection to claims 54 and 73 for being of improper dependent format is withdrawn.

The application will be forwarded to the examiner to consider the papers filed 26 July 2011 and for preparation of an Office action in a manner consistent with this petition 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 703-272-8300.

George C. Elliott

George Elliott
Director, Technology Center 1600

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EMORY UNIVERSITY
1599 CLIFTON ROAD NE
4TH FLOOR
ATLANTA GA 30322

MAILED
JUN 20 2011
OFFICE OF PETITIONS

In re Application of	:	
Shim, et al.	:	
Application No. 11/329,301	:	ON REQUEST FOR
Filed: January 9, 2006	:	RECONSIDERATION OF
Attorney Docket Number: 05116 US	:	PATENT TERM ADJUSTMENT

This is a decision on the petition under 37 CFR 1.705(b), June 9, 2011. Applicant believes that the PTA should be accorded an additional one thousand two (1002) days. Applicant requests this correction on the basis that the Office will take in excess of three years to issue this patent pursuant to 37 CFR 1.702(b).

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment solely as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file a request for reconsideration of patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

In view thereof, the correct determination of PTA prior to issuance is **three hundred thirty-six (336) 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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BLACK LOWE & GRAHAM, PLC
Suite 4800
701 Fifth Avenue
Seattle, WA 98104

In re Application of	:	
Scott Joseph Bean, et. al.	:	
Application No. 11/329,414	:	DECISION ON PETITION
Filed: January 9, 2006	:	
Attorney Docket No. SIL V-1-1004	:	

This is a decision on the petition under 37 CFR 1.137(a), filed on November 4, 2010, requesting revival of the above-identified application.

The above application became abandoned for failure to timely respond to the final Office action mailed March 1, 2010. Accordingly, this application became abandoned on September 2, 2010.

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed;[1] (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c). The instant petition lacks item (3) above.

With respect to item (3), the showing of record is not sufficient to establish to the satisfaction of the Commissioner that the delay was unavoidable within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a). See MPEP 711(c)(III)(C)(2) for a discussion of the requirements for a showing of unavoidable delay. Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure of mail, telegraph, telefacsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

[1] 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.

Petitioner states, "Due to miscommunication with Examiner, the response to the Notice of Non-compliant Amendment issued 8/24/10 was not answered. In a conversation with Examiner Ali on 9/13/10 it was understood from the conversation that no reply would be required. Examiner Ali indicated our Request of Pre-appeal and Pre-appeal Brief filed on 8/11/10 had not been docketed to him and he was unaware they had been filed. He indicated he would review them and issue a decision. This did not occur."

Petitioner should not have allowed the maximum extendable period to expire while awaiting a notice of allowance or other action from the examiner. A response should have been timely filed, which would have tolled the period for reply. As no reply was timely filed, the above application was properly held abandoned.

Petitioner is reminded that 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 (*See* 37 CFR 1.2).

Moreover, petitioner's conversation with the Examiner occurred after the abandonment of this application.

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). Accordingly, since the $865 extension of time fee submitted on November 4, 2010, was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

Petitioner is encouraged to file a petition to revive under 37 CFR 1.137(b) and pay the petition fee of $810. 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 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, and documentation to this number should be addressed to the Office of Petitions.

Correspondence regarding this decision may also be filed through the electronic filing system of the USPTO.

To expedite consideration, petitioner may wish to contact the undersigned once the petition under 37 CFR 1.137(b) has been filed.

Telephone inquiries concerning this decision should be directed to Andrea Smith at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

David Bucci
Petitions Examiner

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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BLACK LOWE & GRAHAM, PLC
Suite 4800
701 Fifth Avenue
Seattle, WA 98104

MAILED

SEP 27 2011

OFFICE OF PETITIONS

In re Application of
Scott Joseph Bean, et. al.
Application No. 11/329,414
Filed: January 9, 2006
Attorney Docket No. SIL V-1-1004

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed on June 27, 2011, requesting revival of the above-identified application.

The instant petition is not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of P.G. Scott Born 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.

Additionally, 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 satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal and $270 fee and a Pre-Appeal Brief Request for Review; (2) the petition fee of $810; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to Technology Center Art Unit 3691 for consideration of the Pre-Appeal Brief Request for Review filed on November 4, 2010.

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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Porter, Wright, Morris & Arthur LLP
ATTN: Intellectual Property Department
28th Floor
41 South High Street
Columbus OH 43215-6194

MAILED

NOV 19 2010

OFFICE OF PETITIONS

In re Application of	:	
Hebert, et al.	:	
Application No. 11/329,501	:	ON PETITION
Filed: January 10, 2006	:	
Attorney Docket No. 3993968-126973	:	

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 October 8, 2009 for failure to timely submit a proper reply to the final Office action mailed July 7, 2009. 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 February 26, 2010.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by: (1) the required reply to the outstanding Office action or notice, unless previously filed; (2) the petition fee as set forth in 37 C.F.R. § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee set forth in 37 C.F.R. § 1.20(d)) required pursuant to 37 C.F.R. § 1.137(c).

The 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 3634 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

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Paper No.

MAILED

APR 11 2011

OFFICE OF PETITIONS

FOLEY & LARDNER LLP
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON WI 53701-1497

In re Application of	:	
Trezza et al.	:	
Application No. 11/329,506	:	ON APPLICATION FOR
Filed: 01/10/2006	:	PATENT TERM ADJUSTMENT
Atty Docket No.	:	
088245-4702	:	

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705," filed on March 4, 2011, which is treated as a petition under 37 CFR 1.705(b). Applicant asserts that the correct patent term adjustment is 252 days rather than 0 days as indicated in the Determination of Patent Term Adjustment Under 35 U.S.C. § 154(b) mailed with the notice of allowance. Applicant asserts entitlement to the additional patent term adjustment solely on the basis that the patent will issue more than 3 years after the filing date.

The instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As

such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months

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[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 09/06/11

TO SPE OF : ART UNIT 3625

SUBJECT : Request for Certificate of Correction for Appl. No.: 11329526 Patent No.: 7742993

CofC mailroom date: 08/26/11

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 change in the claim 3 be approved?**

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

3625
JEFFREY A. SMITH
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 11/20/11

TO SPE OF : ART UNIT 3625

SUBJECT : Request for Certificate of Correction for Appl. No.: 11329526 Patent No.: 7742993

CofC mailroom date: 11/07/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580
You can fax the Directors/SPE response to 571-273-3421

Note: **Should the changes to claim 1 be approved?**

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

☐ **Approved** — **All** changes apply.

☐ **Approved in Part** — Specify below which changes **do not** apply.

☑ **Denied** — State the reasons for denial below.

Comments: Request not signed by all inventors (pro se)

JEFFREY A. SMITH
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

3625

SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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Date Mailed : 11/28/11

Patent No. : 7742993 B2
Patent Issued : **June 22, 2010**
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.

Respecting the alleged errors in the documents filed on 11/07/11; please see attachments. **"Therefore, no correction(s) is in order here under United States Codes (U.S.C.) 254 and the Code of Federal Regulation (C.F.R.) 1322."**

In view of the foregoing, your request in this matter is hereby denied.

Lamonte M. Newsome
For Mary Diggs, Supervisor
Decisions & Certificates
Of Correction Branch
(571) 272-3421 or (703) 305-8309

JAMES L. DRIESSEN
305 NORTH 1130 EAST
LINDON UT 84042

LMN

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 11/20/11

TO SPE OF : ART UNIT 3625

SUBJECT : Request for Certificate of Correction for Appl. No.: 11329526 Patent No.: 7742993

CofC mailroom date: 11/07/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580
You can fax the Directors/SPE response to 571-273-3421

Note: **Should the changes to claim 1 be approved?**

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

☐ **Approved** — All changes apply.

☐ **Approved in Part** — Specify below which changes **do not** apply.

☑ **Denied** — State the reasons for denial below.

Comments: Request not signed by all inventors (pro se)

JEFFREY A. SMITH
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

3625

SPE **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20101019

DATE : October 19, 2010

TO SPE OF : ART UNIT 1736

SUBJECT : Request for Certificate of Correction on Patent No.:

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - ST (South Tower) 9A22
Palm location **7590** - Tel. No. (703) 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriated box.

☒ **Approved** All changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

/Stanley Silverman/
Supervisory Patent Examiner, Art Unit 1793

APPROVED: /R.R./

PTO/SB/44 (08-07)
Approved for use through 08/30/2007. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO: 7,776,362

APPLICATION NO.: 11/329,531

ISSUE DATE: August 17, 2010

INVENTOR(S): Qian, et al.

It is certified that errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

In Claim 8, "32a" should be deleted

In Claim 9, "32a" should be deleted.

In Claim 10, "32a" should be deleted.

MAILING ADDRESS OF SENDER: Grant D. Kang
Kang Intellectual Property Law, LLC
214 Elm Street, Suite 106
Washington, MO 63090

This form is estimated to take 1.0 hour to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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FOLEY & LARDNER LLP
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON WI 53701-1497

In re Application of	:	
Misra, et al.	:	
Application No. 11/329,540	:	ON APPLICATION FOR
Filed: January 10, 2006	:	PATENT TERM ADJUSTMENT
Atty Docket No. 088245-4704		

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)", filed October 14, 2010. Applicants submit that the correct patent term adjustment to be indicated on the patent is five hundred thirty-seven (537) days. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

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 accuracy of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected

issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

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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) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Senior Petitions Attorney
Office of Petitions

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OCT 14 2010

OFFICE OF PETITIONS

In re Application of John Trezza :
Application No. 11/329,557 :
Filing Date: January 10, 2006 :
Attorney Docket No. 088245-4706 :

On Application For
Patent Term Adjustment

This is in response to the "Request for Reconsideration of Patent Term Adjustment Under 37 C.F.R. §1.705" filed May 27, 2010. Applicant submits the correct patent term adjustment to be indicated on the patent is nine hundred sixty-two (962) days, not four hundred fourteen (414) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. *See* 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 § 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, an applicant may wait until the time of the issuance of the patent and file a request for reconsideration of the

patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee.[1]

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

[1] 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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MADISON WI 53701-1497

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JUN 27 2011

OFFICE OF PETITIONS

In re Application of	:	
Trezza et al.	:	
Application No. 11/329,576	:	ON APPLICATION FOR
Filed: January 10, 2006	:	PATENT TERM ADJUSTMENT
Atty Docket No. 088245-4710	:	

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT FOR PATENT APPLICATION UNDER 37 C.F.R. 1.705(b), filed June 13, 2011. Applicants submit that the patent term adjustment to be indicated on the patent is five hundred eighty-seven (587) 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 partly on the basis that the Office will take in excess of three years to issue this patent.

To the extent that applicants request reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentees are entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office 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 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].

A review of the initial determination of patent term adjustment (PTA) has uncovered a new reduction. The application for correction of the patent term adjustment is **GRANTED to the extent indicated herein.**

The Office has updated the PAIR screen to reflect that while the correct Patent Term Adjustment determination at the time of the mailing of the Notice of Allowance remains zero (0) days, an additional reduction of 40 days has been entered. An explanation of the reduction follows. A copy of the updated PAIR screen, showing the determination, is enclosed.

On March 5, 2011, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified

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[1] For example, if an applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

application. The Notice stated that the patent term adjustment to date is 0 days.

A review of the application's contents reveals that on February 11, 2009, applicants filed an Information Disclosure Statement (IDS), after applicants filed a response on January 2, 2009 to a restriction requirement that was mailed on June 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 February 11, 2009, reveals that applicants did not include a statement under 37 CFR 1.704(d).[2] Thus, applicants failed to engage in reasonable efforts to conclude prosecution of the application.

In accordance with 37 CFR 1.704(c)(8), the PTA should have been reduced by 40 days, counting the number of days in the period beginning on the day after the date the proper reply to the restriction requirement was filed, January 3, 2009, and ending on the date the supplemental reply was filed, February 11, 2009. Accordingly, a period of reduction of 40 days will be entered.

In view thereof, the determination of patent term adjustment at the time of the mailing of the Notice of Allowance is **zero (0) days** - 559 (472 + 27 + 60) days of Office delay - 719 (162 + 40 + 149 + 105 + 115 + 148) days of Applicant delay.

The Office acknowledges receipt of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b). 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

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[2] Pursuant to 37 CFR § 1.704(d):

> A paper containing only an information disclosure statement in compliance with §§ 1.97 and 1.98 will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under paragraphs (c)(6), (c)(8), (c)(9), or (c)(10) of this section if it is accompanied by a statement that each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in § 1.56(c) more than thirty days prior to the filing of the information disclosure statement. This thirty-day period is not extendable.

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) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of adjusted PAIR calculation for Application No. 11/329,576

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11/329,576 PATTERNED CONTACT 088245-4710

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Patent Term Adjustment

Filing or 371(c) Date:	01-10-2006	Overlapping Days Between {A and B} or {A and C}:	0
Issue Date of Patent:	-	Non-Overlapping USPTO Delays:	559
A Delays:	559	PTO Manual Adjustments:	-40
B Delays:	0	Applicant Delays:	679
C Delays:	0	Total PTA Adjustments:	0

Patent Term Adjustment History **Explanation Of Calculations**

Number	Date	Contents Description	PTO (Days)	APPL (Days)	Start
157	06-26-2011	Adjustment of PTA Calculation by PTO		40	0
132	03-15-2011	Mail Notice of Allowance	60		115
131	02-09-2011	Reference capture on IDS			0
130	02-09-2011	Information Disclosure Statement (IDS) Filed		148	115
129	02-09-2011	Information Disclosure Statement (IDS) Filed			0
128	12-07-2010	Issue Revision Completed			0
127	12-07-2010	Document Verification			0
126	12-07-2010	Notice of Allowance Data Verification Completed			0
125	12-07-2010	Case Docketed to Examiner in GAU			0
124	12-07-2010	Allowability Notice			0
123	08-27-2010	Information Disclosure Statement considered			0
118	11-30-2010	Reference capture on IDS			0
117	11-30-2010	Information Disclosure Statement (IDS) Filed			0
116	09-15-2010	Date Forwarded to Examiner			0
115	09-14-2010	Response after Ex Parte Quayle Action			0
114	08-27-2010	Reference capture on IDS			0
113	08-27-2010	Information Disclosure Statement (IDS) Filed			0
112	08-27-2010	Information Disclosure Statement (IDS) Filed			0
111	07-23-2010	Mail Ex Parte Quayle Action (PTOL - 326)	27		95
110	07-20-2010	Quayle action			0
109	06-21-2010	Information Disclosure Statement considered			0
108	04-02-2010	Information Disclosure Statement considered			0
	01-11-				

107	2010	Information Disclosure Statement considered		0
106	12-29-2009	Information Disclosure Statement considered		0
105	09-22-2009	Information Disclosure Statement considered		0
104	07-07-2009	Information Disclosure Statement considered		0
103	04-29-2009	Information Disclosure Statement considered		0
102	06-21-2010	Reference capture on IDS		0
101	06-21-2010	Information Disclosure Statement (IDS) Filed	115	95
100	06-21-2010	Information Disclosure Statement (IDS) Filed		0
99	04-01-2010	Reference capture on IDS		0
98	04-01-2010	Information Disclosure Statement (IDS) Filed		0
97	04-02-2010	Information Disclosure Statement (IDS) Filed		0
96	03-28-2010	Date Forwarded to Examiner		0
95	02-26-2010	Response after Non-Final Action	105	84
94	02-03-2010	Mail Notice of Informal or Non-Responsive Amendment		0
93	09-22-2009	Reference capture on IDS		0
92	09-22-2009	Information Disclosure Statement (IDS) Filed		0
91	01-11-2010	Reference capture on IDS		0
90	01-11-2010	Information Disclosure Statement (IDS) Filed		0
89	12-29-2009	Reference capture on IDS		0
88	12-29-2009	Information Disclosure Statement (IDS) Filed		0
87	01-11-2010	Information Disclosure Statement (IDS) Filed		0
86	12-29-2009	Information Disclosure Statement (IDS) Filed		0
85	11-18-2009	Date Forwarded to Examiner		0
84.1	11-13-2009	Informal or Non-Responsive Amendment after Examiner Action		0
84	11-13-2009	Response after Non-Final Action	149	78
83	10-15-2009	Mail Notice of Informal or Non-Responsive Amendment		0
82	09-22-2009	Information Disclosure Statement (IDS) Filed		0
81	07-07-2009	Reference capture on IDS		0
80	07-07-2009	Information Disclosure Statement (IDS) Filed		0
79	08-08-2009	Date Forwarded to Examiner		0
78.1	06-17-2009	Informal or Non-Responsive Amendment after Examiner Action		0
78	06-17-2009	Response after Non-Final Action		0
77	04-29-2009	Reference capture on IDS		0
76	04-29-2009	Information Disclosure Statement (IDS) Filed		0

75	07-07-2009	Information Disclosure Statement (IDS) Filed			0
74	04-29-2009	Information Disclosure Statement (IDS) Filed			0
73	03-19-2009	Mail Non-Final Rejection			0
72	03-16-2009	Non-Final Rejection			0
71	02-11-2009	Information Disclosure Statement considered			0
70	12-18-2008	Information Disclosure Statement considered			0
69	10-15-2008	Information Disclosure Statement considered			0
68	08-19-2008	Information Disclosure Statement considered			0
67	10-17-2007	Information Disclosure Statement considered			0
66	09-21-2007	Information Disclosure Statement considered			0
65	07-10-2007	Information Disclosure Statement considered			0
64	07-05-2007	Information Disclosure Statement considered			0
63	04-20-2007	Information Disclosure Statement considered			0
62	03-27-2007	Information Disclosure Statement considered			0
61	11-27-2006	Information Disclosure Statement considered			0
60	02-11-2009	Information Disclosure Statement (IDS) Filed			0
59	01-08-2009	Date Forwarded to Examiner			0
58	01-02-2009	Response to Election / Restriction Filed		162	48
57	12-18-2008	Reference capture on IDS			0
56	12-18-2008	Information Disclosure Statement (IDS) Filed			0
55	12-18-2008	Information Disclosure Statement (IDS) Filed			0
54	12-02-2008	Mail Notice of Informal or Non-Responsive Amendment			0
53	10-15-2008	Reference capture on IDS			0
52	10-15-2008	Information Disclosure Statement (IDS) Filed			0
51	08-19-2008	Reference capture on IDS			0
50	08-19-2008	Information Disclosure Statement (IDS) Filed			0
49	09-09-2008	Date Forwarded to Examiner			0
48.1	07-24-2008	Informal or Non-Responsive Amendment after Examiner Action			0
48	07-24-2008	Response to Election / Restriction Filed			0
47	08-19-2008	Information Disclosure Statement (IDS) Filed			0
46	06-24-2008	Mail Restriction Requirement	472		0.5
45	06-23-2008	Restriction/Election Requirement			0
44	06-03-2008	Change in Power of Attorney (May Include Associate POA)			0
	05-30-				

11	04-26-2006	Application Return TO OIPE	0
10	04-25-2006	Application Dispatched from OIPE	0
9	04-26-2006	Application Is Now Complete	0
8	04-05-2006	Additional Application Filing Fees	0
7	04-05-2006	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic	0
6	02-24-2006	Notice Mailed--Application Incomplete--Filing Date Assigned	0
5	02-22-2006	Cleared by L&R (LARS)	0
4	02-02-2006	Referred to Level 2 (LARS) by OIPE CSR	0
3	02-02-2006	CASE CLASSIFIED BY OIPE	0
2	01-28-2006	IFW Scan & PACR Auto Security Review	0
1	01-10-2006	Initial Exam Team nn	0
0.5	01-10-2006	Filing date	0

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43	2008	Correspondence Address Change	0
42	10-17-2007	Reference capture on IDS	0
41	10-17-2007	Information Disclosure Statement (IDS) Filed	0
40	10-17-2007	Information Disclosure Statement (IDS) Filed	0
38	09-21-2007	Reference capture on IDS	0
37	09-21-2007	Information Disclosure Statement (IDS) Filed	0
36	09-21-2007	Information Disclosure Statement (IDS) Filed	0
35	07-30-2007	Case Docketed to Examiner in GAU	0
34	07-16-2007	Case Docketed to Examiner in GAU	0
33	07-10-2007	Reference capture on IDS	0
32	07-10-2007	Electronic Information Disclosure Statement	0
31	07-10-2007	Information Disclosure Statement (IDS) Filed	0
30	07-05-2007	Reference capture on IDS	0
29	07-05-2007	Information Disclosure Statement (IDS) Filed	0
28	07-05-2007	Information Disclosure Statement (IDS) Filed	0
27	06-01-2007	Case Docketed to Examiner in GAU	0
26	04-20-2007	Reference capture on IDS	0
25.7	04-20-2007	Electronic Information Disclosure Statement	0
25	04-20-2007	Information Disclosure Statement (IDS) Filed	0
24.7	03-27-2007	Information Disclosure Statement (IDS) Filed	0
24	03-27-2007	Information Disclosure Statement (IDS) Filed	0
23	03-27-2007	Reference capture on IDS	0
22	12-21-2006	Case Docketed to Examiner in GAU	0
21	11-27-2006	Reference capture on IDS	0
20.7	11-27-2006	Information Disclosure Statement (IDS) Filed	0
20	11-27-2006	Information Disclosure Statement (IDS) Filed	0
19	10-12-2006	Case Docketed to Examiner in GAU	0
18	08-20-2006	IFW TSS Processing by Tech Center Complete	0
17	08-20-2006	Case Docketed to Examiner in GAU	0
16	05-02-2006	Miscellaneous Incoming Letter	0
15	04-18-2006	Preliminary Amendment	0
14	04-26-2006	Application Return from OIPE	0
13	04-26-2006	Application Is Now Complete	0
12	04-26-2006	Correspondence Address Change	0

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HITACHI C/O WAGNER BLECHER LLP
123 WESTRIDGE DRIVE
WATSONVILLE CA 95076

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NOV 22 2010
OFFICE OF PETITIONS

In re Application of	:	
George A. DUNN	:	
Application No. 11/329,592	:	DECISION ON PETITION
Filed: January 10, 2006	:	
Attorney Docket No. HSJ920040386US1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 25, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice of Non-Compliant Amendment mailed, December 7, 2007, which set a reply of one (1) month. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on January 8, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) a reply to the Notice of Non- Compliant Amendment, (2) the petition fee of $1620; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

This application is being referred to Technology Center AU 2627 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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SUITE 3400
CHICAGO IL 60661

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AUG 01 2011

OFFICE OF PETITIONS

In re Application of :
KOUL, Ashish :
Application No. 11/329,603 : ON PETITION
Filed: January 11, 2006 :
Attorney Docket No. 16513US02 :

This is a decision on the petitions filed May 17, 2011, under 37 CFR § 1.48(a) to amend the inventive entity by the addition of Douglas Chin, and under 37 CFR §§ 1.78(a)(3), to accept an unintentionally delayed claim under 37 CFR § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the concurrently filed amendment.

The petition under 37 CFR § 1.48(a) is **DISMISSED**.

The petition under 37 CFR § 1.78(a)(3) is **DISMISSED**.

As to the inventorship change under 37 CFR § 1.48(a):

37 CFR 1.48(a) requires that an amendment to the named inventive entity be accompanied by:

(1) A request to correct the inventorship that sets forth the desired inventorship change;

(2) A statement from each person being added as an inventor and from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part;

(3) An oath or declaration by the actual inventor or inventors as required by § 1.63 or as permitted by §§ 1.42, 1.43 or § 1.47;

(4) The processing fee set forth in § 1.17(i); and

(5) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see § 3.73(b)).

The petition does not comply with items (3) and (5). Petitioner has not provided an oath or declaration by the actual inventor or inventors as required by § 1.63. Petitioner has not provided the written consent of the assignee, Broadcom Corporation. While the petition states that these items are included, the declaration presented is not in accordance with § 1.63 and the assent of the assignee is missing.

In regards to item (4), the rules and statutory provisions governing the operations of the U.S. Patent and Trademark Office require payment of a fee on filing each petition under 37 CFR 1.48(a) to correct the inventorship. In this instance, petitioner's Deposit Account No. 13-0017 has been charged $130.00 as authorized in the petition.

As to the benefit claim under 37 CFR § 1.78(a)(3):

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000 and after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

> **(1)** the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
> **(2)** the surcharge set forth in § 1.17(t); and
> **(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition does not comply with item (1). In reviewing the parent application to which petitioner is seeking a claim for priority, application serial number 11/154,032 does not share an inventor in common with application serial number 11/329,603. *See* MPEP 201.11 IV. Same inventor or inventors.

In regards to item (3), the rule at 37 CFR § 1.78(a)(3) requires a statement that the entire delay between the date the claim was due under 37 CFR § 1.78(a)(2)(ii) and the date the claim was filed was unintentional. Since the statement appearing in the petition varies from the required language, the statement is being construed as the statement required by 37 CFR §1.78(a)(3). If this is not a correct reading of the statement appearing in the petition, petitioner should promptly notify the Office.

Before the petition under 37 CFR §§ 1.78(a)(3) can be granted, a renewed petition and either an Application Data Sheet or a substitute amendment (complying with the provisions of 37 CFR 1.121 and 37 CFR 1.76(b)(5)) to correct the above matters are required.

Further correspondence with respect to this matter should be addressed as follows:

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Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Any questions concerning this matter may be directed to Jose' G Dees at (571) 272-1569.

for David Bucci
Petitions Examiner
Office of Petitions

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TKHR (Broadcom)
400 INTERSTATE NORTH PARKWAY SE
SUITE 1500
ATLANTA GA 30339

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JAN 18 2012
OFFICE OF PETITIONS

In re Application of	:	
KOUL, Ashish	:	
Application No..11/329,603	:	ON PETITION
Filed: January 11, 2006	:	
Attorney Docket No. 16513US02	:	

This is a decision on the renewed petitions filed December 13, 2011, under 37 CFR § 1.48(a) to amend the inventive entity by the addition of Douglas Chin, and under 37 CFR §§ 1.78(a)(3), to accept an unintentionally delayed claim under 37 CFR § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the concurrently filed amendment.

The petition under 37 CFR § 1.48(a) is **DISMISSED**.

The petition under 37 CFR § 1.78(a)(3) is **DISMISSED**.

As to the inventorship change under 37 CFR § 1.48(a):

37 CFR 1.48(a) requires that an amendment to the named inventive entity be accompanied by:

(1) A request to correct the inventorship that sets forth the desired inventorship change;

(2) A statement from each person being added as an inventor and from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part;

(3) An oath or declaration by the actual inventor or inventors as required by § 1.63 or as permitted by §§ 1.42, 1.43 or § 1.47;

(4) The processing fee set forth in § 1.17(i); and

(5) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see § 3.73(b)).

The petition does not comply with items (3) and (5). In regards to item (3), petitioner has not provided an oath or declaration by the actual inventor or inventors as required by § 1.63.While each inventor need not execute the same oath or declaration, each oath or declaration executed by an inventor must contain a complete listing of all inventors so as to clearly indicate what each inventor believes to be the appropriate inventive entity. The declaration presented does not make reference that the affiant is a joint inventor together with the other indicating him by name. See MPEP 602 IV.

In regards to item (5), petitioner has not provided the written consent of the assignee, Broadcom Corporation. While the petition states that the consent is attached, the consent of the assignee is missing.

As to the benefit claim under 37 CFR § 1.78(a)(3):

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000 and after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

> **(1)** the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
> **(2)** the surcharge set forth in § 1.17(t); and
> **(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition does not comply with item (1). In reviewing the parent application to which petitioner is seeking a claim for priority, application serial number 11/154,032 does not share an inventor in common with application serial number 11/329,603. *See* MPEP 201.11 IV. Same inventor or inventors.

Further, the reference to add the above-noted, prior-filed application between paragraphs 0001 and 0002 of the specification is not acceptable as drafted since it improperly incorporates by reference the prior-filed application. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 120 after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 120 is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See*

Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b). The amendment as drafted is unacceptable and, therefore, is not considered a proper reference under 37 CFR 1.78(a)(2)(i).

Further, the power of attorney in this application has changed. 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.

Before the petition under 37 CFR §§ 1.78(a)(3) can be granted, a renewed petition and either an Application Data Sheet or a substitute amendment (complying with the provisions of 37 CFR 1.121 and 37 CFR 1.76(b)(5)) to correct the above matters are required.

Further correspondence with respect to this matter should be addressed as follows:

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Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Any questions concerning this matter may be directed to Jose' G Dees at (571) 272-1569.

Jose G Dees
Petitions Examiner
Office of Petitions

cc: **MCANDREWS HELD & MALLOY, LTD**
500 WEST MADISON STREET
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In re Application of	:	
Noller et al.	:	
Application No. 11/329631	:	
Filing or 371(c) Date: 01/11/2006	:	ON PETITION
Attorney Docket Number:	:	
Archivas 006	:	

This is a decision on the Petition Under 37 CFR 1.137(b), filed October 12, 2011, to revive the above-identified application.

The petition is **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed September 8, 2010. 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 complete and proper reply having been received, the application became abandoned on December 12, 2010. A Notice of Abandonment was mailed April 5, 2011.

Applicant files the present petition and Amendment in response to the Office action. 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 is filed with the present petition; (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 2192 for processing of the Amendment 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20100909

DATE : September 09, 2010

TO SPE OF : ART UNIT 2627

SUBJECT : Request for Certificate of Correction on Patent No.: 7,660,077

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 H. Feild/
Supervisory Patent Examiner, Art Unit 2627

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : August 4, 2010

TO SPE OF : ART UNIT 1797
SUBJECT : Request for Certificate of Correction for Appl. No/11/329710 /pat. /7732388

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES: Check Branding

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**.

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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:

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Randolph Square – 9D10-A
Palm Location 7580

Magdalene Talley

Certificates of Correction Branch
571-272-0423

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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: _____

/Walter D. Griffin/ — **SPE**

1774 — **Art Unit**

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In re Application of	:	
Trezza et al.	:	
Application No. 11/329,883	:	ON APPLICATION FOR
Filed: January 10, 2006	:	PATENT TERM ADJUSTMENT
Atty Docket No. 088245-4715	:	

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 March 21, 2011. Applicant submits that the correct patent term adjustment to be indicated on the patent is three hundred forty-eight (348) days, not one hundred eighty-six (186) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As

such, the Office cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months

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[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Doc Code: PET.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: 111027-146381 (P23346)	Patent Number: 7,668,121
Filing Date (or 371(b) or (f) Date): 01-10-2006	Issue Date: 02-23-2010
First Named Inventor: Sanjay Bakshi	
Title: PURGING OF AUTHENTICATION KEY CONTEXTS BY BASE STATIONS ON HANDOFF	

PATENTEE HEREBY REQUESTS RECALCULATION OF THE PATENT TERM ADJUSTMENT (PTA) UNDER 35 USC 154(b) INDICATED ON THE ABOVE-IDENTIFIED PATENT. THE PATENTEE'S SOLE BASIS FOR REQUESTING THE RECALCULATION IS THE USPTO'S PRE-*WYETH* INTERPRETATION OF 35 U.S.C. 154(b)(2)(A).

Note: This form is only for requesting a recalculation of PTA for patents issued before March 2, 2010, if the sole basis for requesting the recalculation is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A). See Instruction Sheet on page 2 for more information.

Patentees are reminded that to preserve the right to review in the United States District Court for the District of Columbia of the USPTO's patent term adjustment determination, a patentee must ensure that he or she also takes the steps required under 35 U.S.C. 154(b)(3) and (b)(4) and 37 CFR 1.705 in a timely manner.

**Wyeth v. Kappos*, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).

Signature /Stuart A. Whittington/	Date July 9, 2010
Name (Print/Typed) Stuart A. Whittington	Registration Number 45,215

***Note**: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required in accordance with 37 CFR 1.33 and 11.18. Please see 37 CFR 1.4(d) for the form of the signature. If necessary, submit multiple forms for more than one signature, see below**.*

☐ *Total of _____ forms are submitted.

The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

PTO/SB/131 (01-10)
Approved for use through 02/28/2011. OMB 0651-0020
U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

Instruction Sheet for: REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH**

(Not to be Submitted to the USPTO)

This form is only for requesting a recalculation of PTA for patents issued before March 2, 2010, if the sole basis for requesting the recalculation is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A).

This form must be filed within 180 days of the day the patent was granted, with the following exception:

> Patentees who received a decision from the USPTO under the USPTO's pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A) may file a request for reconsideration of that decision if such a request for reconsideration is filed within **two months** of the date of the decision (37 CFR 1.181(f)). If the patentee's sole basis for requesting reconsideration of the decision is the USPTO's pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A), the request for reconsideration need only state that reconsideration is being requested in view of Wyeth (this form may be used for this purpose if it is filed within **two months** of the date of the decision from the USPTO).

Do not use this form if the application has been allowed, but not yet issued as a patent.

1. **For patents issued before March 2, 2010:** A request for reconsideration under 37 CFR 1.705(d) and the fee set forth in 37 CFR 1.18(e) are not required, provided that the patentee's sole basis for requesting recalculation of the PTA in the patent is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A) and this form is filed within 180 days of the day the patent was granted.

2. **For patents issued on or after March 2, 2010 (do not use this form):** Patentees seeking a revised PTA in a patent issued on or after March 2, 2010, must file a request for reconsideration under 37 CFR 1.705(d) that complies with the requirements of 37 CFR 1.705(b)(1) and (b)(2) within two months of the day the patent issued.

For more information, see "Notice Concerning Calculation of the Patent Term Adjustment With Respect to the Overlapping Delay Provision of 35 U.S.C. 154(b)(2)(A)" available on the USPTO Web site at http://www.uspto.gov/patents/law/notices/2010.jsp.

**Wyeth v. Kappos*, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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P.O. Box 1450
Alexandria, Virginia 22313-1450
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SCHWABE, WILLIAMSON & WYATT, P.C.
PACWEST CENTER, SUITE 1900
1211 S.W. FIFTH AVE.
PORTLAND, OR 97204

Mail Date: 08/26/2010

Applicant	: Sanjay Bakshi	: DECISION ON REQUEST FOR
Patent Number	: 7668121	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/329,912	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/10/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1081** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paul W. Eschenbach
290 South Tyger Lane
Roebuck SC 29376

MAILED
NOV 05 2010
OFFICE OF PETITIONS

In re Application of	:	
Paul Williams Eschenbach	:	
Application No. 11/329950	:	
Filing or 371(c) Date: 01/12/2006	:	ON PETITION
Title of Invention:	:	
STEP THROUGH RECUMBENT	:	
ELLIPTICAL EXERCISE APPARATUS	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 6, 2010, to revive the above-identified application.

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 application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of August 19, 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 23, 2006.

The present petition

Applicant files the present petition and Amendment in response 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) (1).

The present petition and amendment

The Examiner has reviewed the Amendment and concluded that the Amendment fails to place the application in condition for allowance.

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

Inquiries regarding the Amendment should be directed to the Examiner. Telephone inquiries concerning this petition Decision should be directed to the undersigned at (571) 272-3232.

/DLW/

Derek L. Woods
Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 7/20/09

TO SPE OF : ART UNIT 3632 James Shriver (spe)

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/330008 Patent No.: 7533506

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

Certificates of Correction Branch
703-308-9390 ext. _____

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: _____

/Terrell Mckinnon/ 3632
SPE **Art Unit**

UNITED STATES DEPARTMENT OF COMMERCE
U.S. Patent and Trademark Office
Address : COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
11/330,008	11 January 2006	PLATT, ROBERT E.	1522013US1AP

EXAMINER
TERRELL MCKINNON

ART UNIT	PAPER
3632	20110610

DATE MAILED:

SAND & SEBOLT
AEGIS TOWER, SUITE 1100
4940 MUNSON STREET, NW
CANTON, OH 44718-3615

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

The Request for Certificate of Correction filed June 25, 2009 has been considered and approved.

/TERRELL MCKINNON/
Supervisory Patent Examiner, Art Unit 3632

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
www.uspto.gov

BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA, VA 22314-1176

Mail Date: 08/06/2010

Applicant	: Jeffrey Lo	: DECISION ON REQUEST FOR
Patent Number	: 7657733	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/330,250	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/12/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1058** 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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WALTER A. RODGERS
RODGERS & RODGERS
6100 LAKE FORREST DRIVE, SUITE 340
ATLANTA, GA 30328

MAILED

JUL 19 2011

OFFICE OF PETITIONS

In re Application of	:	
Da KENG, et *al.*	:	
Application No. 11/330,290	:	DECISION ON PETITION
Filed: January 12, 2006	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. **2460.300.np**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 2, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of February 22, 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 May 23, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $405, and the submission required by 37 CFR 1.114; (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at (571) 272-7253.

This application is being referred to Technology Center AU 3632for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Thurman K. Page
Petitions Examiner
Office of Petitions

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/330,324	01/12/2006	Kevin Brown	1875.7490001	8537

26111 7590 08/16/2011
STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

EXAMINER
TORRES, JUAN A

ART UNIT	PAPER NUMBER
2611	

MAIL DATE	DELIVERY MODE
08/16/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

P.O. Box 1450

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United States Patent and Trademark Office
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MAIL

AUG 15 2011
DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

In re Application of
BROWN, KEVIN et al.
Application No. 11/330,324
Filed: January 12, 2006
For: **DYNAMIC ADJUSTMENT OF TRANSFER CHARACTERISTICS AS A FUNCTION OF CHANNEL CHARACTERISTICS**

DECISION
ON PETITION

This is a decision on the petition filed June 13, 2011, pursuant to 37 CFR § 1.181(a) and 37 CFR § 41.3, requesting that ground of rejection set forth in Examiner's Answer on Appeal be designated as a new ground of rejection and provide a copy of the reference cited in the answer to the Appellant. The petition will be treated as a petition pursuant to 37 CFR 1.181 in accordance with MPEP 1002.02(c)8.

PERTINENT BACKGROUND

A non-final Office action was issued September 29, 2009 rejecting claims 1-25 under 35 USC 103(a) over Song; Non Patent Literature (NPL) in view of Applicant Admitted Prior Art (AAPA). Claims were also rejected under 35 USC 103(a) over Cioffi in view of AAPA. Finally, claims 1-25 were again rejected this time under 35 USC 103(a) over Friedman in view of AAPA. Within the body of the rejections as well as the Response to Arguments the document 1999 G.992.1 at http:/www.itu.int/rec/T-REC-G.992.1-199907-I/en (ITU citation) was referenced.

A response to the first Office action was timely filed and received in the Patent and Trademark Office (PTO) on March 29, 2010. Applicant argued for patentability over the combination of rejections that included reference to Song, AAPA, Cioffi, Friedman and even ITU citation. Applicant further requested a copy of the ITU citation in accordance with MPEP 707.05(a).

A final Office action was issued on April 29, 2010 again rejecting all of the claims 1-25 under 103(a) over same combination of references, as was set forth in the Office action of September 29, 2009. The examiner response to sending a copy of ITU citation was that the G.992.1 standard can be downloaded for free in the link provided by the examiner and also that the citation is for reference purposes only.

On October 29, 2010, applicant filed a Notice of Appeal and Pre-Appeal Brief Request for Review.

An Appeal Brief was filed February 28, 2011.

An Examiner's Answer was issued on April 11, 2011. Again the examiner made reference to the ITU citation along with various references to sections in the document as well as incorporating

copies of figures and tables from the document into the Examiner's Answer without including the ITU reference as part of the rejection or citing the ITU citation on a PTO-892 to make the reference of record and supplying appellant with a copy of the citation.

Petitioner seeks relief by filing a petition June 13, 2011 that is being treated under 37 CFR 1.181 requesting to designate the grounds of rejection set forth in the Answer on Appeal be designated as a new ground of rejection and provide a copy of the citation to the appellant. A Reply Brief was simultaneously filed.

REGULATIONS AND PRACTICE

37 CFR 1.104 Nature of Examination states in part:

(d) Citation of references.
(1) If domestic patents are cited by the examiner, their numbers and dates, and the names of the patentees will be stated. If domestic patent application publications are cited by the examiner, their publication number, publication date, and the names of the applicants will be stated. If foreign published applications or patents are cited, their nationality or country, numbers and dates, and the names of the patentees will be stated, and such other data will be furnished as may be necessary to enable the applicant, or in the case of a reexamination proceeding, the patent owner, to identify the published applications or patents cited. In citing foreign published applications or patents, in case only a part of the document is involved, the particular pages and sheets containing the parts relied upon will be identified. If printed publications are cited, the author (if any), title, date, pages or plates, and place of publication, or place where a copy can be found, will be given.

MPEP 707 Examiner's Letter or Action states in part:

The list of references cited appears on a separate form, Notice of References Cited, PTO-892 (copy in MPEP § 707.05) attached to applicant's copies of the action. Where applicable, Notice of Draftsperson's Patent Drawing Revision, PTO-948 and Notice of Informal Patent Application are attached to the first action.

MPEP 707.05 Citation of References states in part:

Copies of documents cited will be provided as set forth in MPEP § 707.05(a). That is, copies of documents cited by the examiner will be provided to applicant except where the documents:
(A) are cited by applicant in accordance with MPEP § 609, § 707.05(b), and § 708.02;
(B) have been referred to in applicant 's disclosure statement;
(C) are cited and have been provided in a parent application;
(D) are cited by a third party in a submission under 37 CFR 1.99 (MPEP § 1134.01); or
(E) are U.S. Patents or U.S. application publications. See MPEP § 707.05(e) regarding data used in citing references.

MPEP 1207.03 New Ground of Rejection in Examiner's Answer states in part, under part III. SITUATIONS THAT ARE NOT CONSIDERED AS NEW GROUNDS OF REJECTION<

A new prior art reference >applied or< cited for the first time in an examiner's answer generally will constitute a new ground of rejection. If the citation of a new prior art reference is necessary to support a rejection, it must be included in the statement of rejection, which would be considered to introduce a new ground of rejection. Even if the prior art reference is cited to support the rejection in a minor capacity, it should be positively included in the statement of rejection. In re Hoch, 428 F.2d 1341, 1342 n.3, 166 USPQ 406, 407 n. 3 (CCPA 1970).

MPEP 1207.04 Reopening of Prosecution After Appeal states in part:

The examiner may, with approval from the supervisory patent examiner, reopen prosecution to enter a new ground of rejection after appellant's brief or reply brief has been filed. The Office action containing a new ground of rejection may be made final if the new ground of rejection was (A) necessitated by amendment, or (B) based on information presented in an information disclosure statement under 37 CFR 1.97(c) where no statement under 37 CFR 1.97(e) was filed. See MPEP § 706.07(a). Any after final amendment or affidavit or other evidence that was not entered before must be entered and considered on the merits.

OPINION

A review of the file record shows the ITU citation/reference was originally cited in the non-final office action on September 29, 2009, but not included in the statement of rejection. For the first time in the examiner's answer issue on April 11, 2011, new sections of the ITU citation/reference were introduced to support the rejection. Note reference to figures 7-11, 7-12, and table 6-3. Again ITU citation/reference was not included in the statement of rejection. In accordance with MPEP 1207.03, it is clear that the ITU citation/reference has been cited to support the rejection, even if in a minor capacity, therefore it should be positively stated in the statement of rejection. Because the reference has been cited by the examiner, it must also be cited by office on a PTO-892 and a copy of the reference provided to the appellant in accordance with MPEP 707.05

Accordingly, the petition requesting that ground of rejection set forth in Examiner's Answer on Appeal be designated as a new ground and requirement to submit a copy of the ITO reference to the appellant is **Granted**.

In accordance with MPEP 1207.04, prosecution is reopened after appellant's reply brief filed June 13, 2011, and application is returned to examiner to enter the new grounds of rejection which will include the ITU reference in the statement of rejection or other action as necessary. Reopening of prosecution must be approved by a supervisory patent examiner. Examiner will also cite the ITU reference on a PTO-892 and send a copy of the reference to the appellant for consideration. Because petition was treated under 37 CFR 1.181 in accordance with MPEP 1002.02(c)8 and not under 37 CFR 41.3, the petition fee of $400.00 is not required and will be credited to appellants deposit account.

Any inquiry regarding this decision should be directed to Michael Horabik, Quality Assurance Specialist, at (571) 272-3068).

John L. LeGuyader, Director
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

CADES SCHUTTE A LIMITED LIABILITY LAW PARTNERSHIP
1000 BISHOP STREET
12TH FLOOR
HONOLULU HI 96813

MAILED

OCT 14 2010

OFFICE OF PETITIONS

In re Application of	:	
Winther et al.	:	
Application No. 11/330,406	:	ON PETITION
Filed: January 10, 2006	:	
Attorney Docket No. 64154-5011	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed September 13, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and a Response After Final Office Action, fulfilling the requisite submission under 37 CFR 1.114, (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 Technology Center AU 3768 for processing of the RCE filed concurrently with the instant petition.

Liana Walsh
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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FITCH, EVEN, TABIN & FLANNERY
120 SOUTH LASALLE STREET
SUITE 1600
CHICAGO, IL 60603-3406

MAILED

JUN 13 2011

OFFICE OF PETITIONS

In re Application of :
KEVIN H. SCHILLING et al :
Application No. 11/330,413 : ON PETITION
Filed: January 10, 2006 :
Attorney Docket No. 8970-95109-US :

This is a decision on the petition, filed on May 31, 2011, "Request Under 37 CFR § 1.48(a) to Correct Inventorship and Petition Under 37 CFR § 1.183 to Waive Requirements of 37 CFR § 1.64." The processing fees of $130.00 and $400.00 under 37 CFR § 1.17(i) and 37 CFR § 1.17(f) respectively has been charged to Deposit Account No. 06-1135.

The petition under 37 CFR § 1.48(a) is **DISMISSED**.

The petition under 37 CFR § 1.183 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 §§1.48(a) and 1.183. This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

Petitioner indicates that during a review of the inventorship of the abovementioned application, that it was discovered that without any deceptive intent on behalf of any party, the listed inventorship was incorrect. Petitioner indicates that Sarjit Johal was also an inventor of the subject matter claimed and submits the consent of the assignee to the addition of Sarjit Johal. All signatures for a subsequent declaration have been obtained, except for deceased inventor Frank W. Baressi. Petitioner indicates that the next of kin for inventor Frank W. Barresi, who is his legal representative, is presently grieving and is otherwise unfamiliar with declarations/oaths which need to be signed during the patent application process. Petitioner now submits a petition under 37 CFR § 1.183 requesting a waiver of the requirements of 37 CFR § 1.48(a)(3), and 37 CFR § 1.64.

The petition under 37 CFR § 1.48(a) is dismissed. The petition fails to demonstrate or establish that the legal representative of Frank W. Barresi is unavailable to conduct the required business before the Office. The present condition stated in the petition is insufficient for the action requested. The request does not indicate that papers were in fact submitted to the legal representative for signature, resulting in the required unavailability or refusal to sign.

The petition under 37 CFR 1.183 is dismissed. 37 CFR § 1.183 provides that in an extraordinary situation, when justice requires, any requirement of the regulations which is not a requirement of the statutes may be suspended or waived by the Commissioner. Here, presentation of a request to add an inventor requires a substitute declaration. The submitted exhibits are insufficient to establish due diligence for granting of the petition and the acceptance of the substitute declaration.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By Hand: U. S. Patent and Trademark Office
Customer Window, Mail Stop PETITIONS
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

The application file is being forwarded to Technology Center 1600, Art Unit 1616 for further action as appropriate.

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-0602.

Thurman K. Page
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FITCH, EVEN TABIN & FLANNERY
120 SOUTH LASALLE STREET
SUITE 1600
CHICAGO, IL 60603-3406

MAILED

AUG 01 2011

OFFICE OF PETITIONS

In re Application of	:	
KEVIN H. SCHILLING et al	:	
Application No. 11/330,413	:	DECISION ON PETITION
Filed: January 10, 2006	:	
Attorney Docket No. 8970-95109-US	:	

This is a decision on the renewed petition under 37 CFR 1.48(a), filed, July 13, 2011, to correct the inventorship in the instant application.

The petition is **GRANTED**.

Petitioner requests that the U.S. Patent and Trademark Office (Office) update their records to add the name **SARJIT JOHAL** as an inventor. Petitioner has now presented the required signed declaration from the legal representative of Frank W. Barresi. The petition is granted and the inventorship of this application has been amended by the addition of **SARJIT JOHAL**.

The application has been forwarded to Technology Center 1600, Art Unit 1600 for further action as appropriate.

Any questions concerning this matter may be directed to the undersigned at (571) 272-0602.

Thurman K. Page
Petitions Examiner
Office of Petitions

Enclosed: 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
11/330,413	01/10/2006	1616	2330	8970-95109-US	29	5

CONFIRMATION NO. 8807

CORRECTED FILING RECEIPT

74456
FITCH, EVEN, TABIN & FLANNERY
120 SOUTH LASALLE STREET
SUITE 1600
CHICAGO, IL 60603-3406

OC000000049066407

Date Mailed: 08/01/2011

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Kevin H. Schilling, Muscatine, IA;
Frank W. Barresi, Iowa City, IA;
Richard E. Castle, Muscatine, IA;
Sarjit Johal, Muscatine, IA;

Assignment For Published Patent Application

Grain Processing Corporation, Muscatine, IA

Power of Attorney: The patent practitioners associated with Customer Number 74456

Domestic Priority data as claimed by applicant

Foreign Applications (You may be eligible to benefit from the **Patent Prosecution Highway** program at the USPTO. Please see http://www.uspto.gov for more information.)

If Required, Foreign Filing License Granted: 02/22/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/330,413**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

PEST CONTROL AGENT, METHOD FOR MANUFACTURE OF PEST CONTROL AGENT, AND METHOD FOR PEST CONTROL

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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DICKE, BILLIG & CZAJA
FIFTH STREET TOWERS
100 SOUTH FIFTH STREET, SUITE 2250
MINNEAPOLIS MN 55402

MAILED
FEB 24 2011
OFFICE OF PETITIONS

In re Application of	:	
John T. Ness	:	
Application No. 11/330,611	:	DECISION ON PETITION
Filed: January 12, 2006	:	
Attorney Docket No. H295.110.102	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 18, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, May 14, 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 August 15, 2008. A Notice of Abandonment was mailed January 22, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Continuing application, (2) the petition fee of $810.00, and (3) a proper statement of unintentional delay.

Further, 37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." 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 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. 13/008,565, filed January 18, 2011.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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McDermott Will & Emery LLP
11682 El Camino Real, Suite 400
San Diego, CA 92130

Mail Date: 08/11/2010

Applicant	: Fuyun Ling	: DECISION ON REQUEST FOR
Patent Number	: 7660368	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/330,652	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/11/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **841** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO, CA 92121

MAILED

FEB 01 2011

OFFICE OF PETITIONS

In re Application of :
Irina Medvedev et al :
Application No. 11/330,733 : ON PETITION
Filed: January 11, 2006 :
Attorney Docket No. 020038C1 :

This is a decision on the petition under 37 CFR 1.137(b), filed, December 13, 2010, to revive the above-identified application.

The petition is **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** final agency action within the meaning of 5 U.S.C. § 704.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(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)(III)(C) and (D). The instant petition lack(s) item(s) (1).

A petition to revive cannot be granted where there is an outstanding requirement(s). 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 June 29, 2010, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on September 30, 2010. The petition to revive cannot be granted until the $1510 Issue fee and $300 Publication fee is received.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By facsimile: (571) 273-8300
ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO, CA 92121

MAILED

FEB 11 2011

OFFICE OF PETITIONS

In re Application of
Irina Medvedev et al
Application No. 11/330,733
Filed: January 11, 2006
Attorney Docket No. 020038C1

ON PETITION

This is a decision on the petitions filed February 9, 2011 under 37 CFR 1.137(b), to revive the above-identified application and under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition under 37 CFR 1.137(b) is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the Issue fee 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 petition under 37 CFR 1.313(c)(2) is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on February 9, 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 2618 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement previously filed December 13, 2010.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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FITCH EVEN TABIN & FLANNERY
120 SOUTH LASALLE STREET
SUITE 1600
CHICAGO, IL 60603-3406

MAILED
JAN 03 2011
OFFICE OF PETITIONS

In re Application of :
Chandrika K. Kodikara Patabandi et al :
Application No. 11/330,820 : ON PETITION
Filed: January 11, 2006 :
Attorney Docket No. 9147/96630 (06-0007-CIP)

This is a decision on the petition, filed January 3, 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 November 19, 2010 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2627 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

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PYLE & PIONTEK LLC
221 N. LASALLE STREET, SUITE 1207
CHICAGO IL 60601

MAILED
SEP 20 2011
OFFICE OF PETITIONS

In re Patent No. 7,354,638	:	
Issue Date : April 8, 2008	:	
Application No. 11/330,829	:	DECISION ON PETITION
Filed: January 12, 2006	:	
Attorney Docket No. RAY 40034B	:	

This is a decision on the Petition For Expungement of Assignment Under MPEP 323.01(d), filed August 4, 2011, which is being treated as a petition under 37 CFR 1.182 to expunge an assignment previously recorded against the above-identified application.

The petition is **granted**.

Petitioner indicates that sections of the Contributions and Purchase Agreement are proprietary but were inadvertently provided on an assignment document associated with the above-identified application. Petitioner requests that this original document containing the sensitive proprietary information be expunged. A copy of this assignment document that redacts the proprietary information without disturbing the remainder of the document's contents was recorded at reel 026819 frame 0307 to replace the original document.

While, as noted in MPEP 323, the USPTO will not normally remove a recorded document but instead records supplemental correcting documents, the sensitive nature of the proprietary information in question justifies the requested expungement. Since the normal corrective procedures outlined in MPEP § 323.01(a) through § 323.01(c) will not provide the petitioner with adequate relief and the integrity of the assignment records will not be affected by granting the petition due to the presence of the newly recorded redacted copy, the requested expungement is granted.

The fee for a petitioner filed under 37 CFR 1.182 has been charged to petitioner's deposit account as authorized.

The relief will be effected as follows:

(1) the USPTO will remove any and all reference "pointers" in its relevant systems to the agreement recorded at reel 023409 frame 0414, such that the agreement cannot be located

by referencing any of the applications or patents associated with the above-identified application against which the agreement was formerly recorded;

(2) the copy of the assignment document that redacts the proprietary information, recorded at reel 026819 frame 0307, will be recognized as having a date of recordation of October 23, 2009, the date the original document was recorded; and

(3) the petition and decision associated with this expungement will be maintained in confidence separate from any application or patent file to protect the sensitive information, including the reel/frame numbers of the original document.

Telephone inquiries concerning this communication should be directed to Carl Friedman at (571) 272-6842.

Carl Friedman
Petitions Examiner
Office of Petitions

Cc: Morgan, Lewis & Bockius LLP
1701 Market Street
Philadelphia, PA 19103

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PERKINS COIE LLP
P.O. BOX 1208
SEATTLE, WA 98111-1208

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APR 04 2011

OFFICE OF PETITIONS

In re Application of
Sudheer Poorna Chandra Matta
Application No. 11/330,877
Filed: January 11, 2006
Attorney Docket No. 43390-8008.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 February 9, 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.*

A review of the file record indicates that no Statement Under 37 CFR 3.73(b) by the current assignee has been filed in the instant application, therefore the request cannot be approved at this time.

A proper Statement Under 3.73(b) must include the chain of title starting from the inventor(s) including a reel and frame number of the recorded assignment or, a copy of the assignment(s).

There is an outstanding Office action mailed January 13, 2011, that requires a reply from the applicant.

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

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-6059.

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

OPAP
AUG 06 2010
PATENT & TRADEMARK OFFICE
IAP24

11331136

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:	126648	Patent Number:	7,658,953
Filing Date (or 371(b) or (f) Date):	January 13, 2006	Issue Date:	February 9, 2010
First Named Inventor:	Ilja BOBBERT		
Title:	Enhanced Activity Biocidal Hydrogen Peroxide Composition		

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 6, 2010
Name (Print/Typed)	William P. Berridge	Registration Number	30,024
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: 09/02/2010

Applicant	: Ilja Bobbert	: DECISION ON REQUEST FOR
Patent Number	: 7658953	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/331,136	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/13/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **704** 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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HOFFMANN & BARON, LLP
6900 JERICHO TURNPIKE
SYOSSET NY 11791

MAILED

SEP 16 2010

OFFICE OF PETITIONS

Applicant: Karp et al.
Appl. No.: 11/331,180
Filing Date: January 13, 2006
Title: METHODS FOR TREATING HEPATITIS C
Attorney Docket: 1368-28A CIP
Pub. No.: 2006/0189606 A1
Pub. Date: August 24, 2006

This is a decision on the request for reconsideration of a corrected patent application publication under 37 CFR 1.221(b), received on February 21, 2008, for the above-identified application.

The request is DISMISSED.

Applicant request reconsideration of the earlier decision and asserts that it is clear from the record which compounds were not published. Applicant further asserts that since some of the compounds with small text were published, that it is not a burden for the Office to publish the small text.

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]

With respect to page 37, Applicants petition for entry of page 37 was dismissed.

The errors in the specification of the publication wherein the formulas contained on the approximately 22 pages of specification were not published, may be Office errors, but the errors are not material errors in accordance with 37 CFR 1.221(b). The errors are due to the quality and size of the text, which is very small, which makes it difficult to electronically reproduce by digital imaging and optical character recognition. See 37 CFR 1.52(a)(1)(v), which states that all

[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).

papers that are to become a permanent part of Office records must be presented "in a form having sufficient clarity and contrast between the paper and the writing to permit...electronic capture by use of digital imaging and optical character recognition". As set forth at MPEP 1121, "applications with poor quality text, which may acceptable for scanning and examination purposes, may lead to errors in the patent application publication. While some of the text may have been published, it is because the text has to be rekeyed. The small text can not be reproduced by digital imaging and optical character recognition.

Applicant is advised that he may want to file application papers that are clearer, as the errors are due to the quality of the text. Applicants have been advised to file applications having cleaner and larger text with sufficient clarity and contrast to permit reproduction, such as electronic reproduction by digital imaging and optical character recognition, which will avoid errors in the patent application publication process. See 37 CFR 1.52 and PCT Rule 11.9(d).

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/ebc/portal/tutorials.htm

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:

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

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1000 TOWN CENTER
TWENTY-SECOND FLOOR
SOUTHFIELD MI 48075

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NOV 15 2010

OFFICE OF PETITIONS

In re Application of :
Dmytro Romanovich Lysyuk :
Application No. 11/331,205 : DECISION ON PETITION
Filed: January 13, 2006 :
Attorney Docket No. 13928-002 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 8, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement mailed July 11, 2008, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on August 12, 2008. A Notice of Abandonment was mailed January 16, 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 response to the Restriction Requirement, (2) the petition fee of $810.00, and (3) a proper statement of unintentional delay.

Further, it is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

This application is being referred to Technology Center AU 3635 for appropriate action by the Examiner in the normal course of business on the reply received.

Joan Olszewski
Petitions Examiner
Office of Petitions

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Jaimes Sher, Esq.
Cabot Corporation
5401 Venice Avenue NE
Albuquerque NM 87113

MAILED

AUG 16 2010

OFFICE OF PETITIONS

In re Application of
Karel Vanheusden et al.
Application No. 11/331,211
Filed: January 13, 2006
Attorney Docket No. **2005A001.2**

ON PETITION

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed July 15, 2010, to revive the above-identified application.

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 Jeffrey T. Gendzwill 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. Gendzwill 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, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of November 19, 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 extension of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is February 20, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuing application under 37 CFR 1.53(b); (2) the petition fee of 810; and (3) a proper statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4584

This application is being 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. 12/816,210.

JoAnne Burke
Petitions Examiner
Office of Petitions

cc: Jeffrey T. Gendzwill
2900 K Street
North Tower-Suite 200
Washington, DC 20007-5118

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SEP 09 2010

OFFICE OF PETITIONS

Hugh D. Jaeger, Esq.
Hugh D. Jaeger, P.A.
P.O. BOX 432
WAYZATA MN 55391-0432

In re Application of	:	
VIGIL et al.	:	DECISION ON PETITION
Application No. 11/331,326	:	
Filed: 01/12/2006	:	
Attorney Docket No. STAGING P588	:	

This is in response to the letter filed March 24, 2010, which is being treated as a petition under 37 CFR 1.137(b), to revive the above-identified application.

The petition under 37 CFR 1.137(b) is **granted**.

The above-identified application became abandoned for failure to file a timely response to the Office action mailed September 24, 2008, which set a shortened statutory period of one month or thirty (30) days, whichever was longer, for reply. No extensions of this time period were obtained. Accordingly, the above-identified application became abandoned on October 25, 2008. A Notice of Abandonment was mailed on May 1, 2009.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Petitioner submitted the required reply and an authorization to charge the petition fee, and made the proper statement of unintentional delay.

The $810.00 petition fee will be charged to the Deposit Account as authorized.

This matter is being referred to Technology Center Art Unit 3633.

Telephone inquiries specific to this decision may be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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Hugh D. Jaeger, Esq.
Hugh D. Jaeger, P.A.
P.O. BOX 432
WAYZATA MN 55391-0432

MAY 24 2011

In re Application of
VIGIL, TODD S. et al. : **DECISION ON PETITION**
Application No. 11/331,326 :
Filed: January 12, 2006 :
Attorney Docket No.: STAGING P588 :

This is a decision on the Petition To Withdraw Holding Of Abandonment received in the United States Patent and Trademark Office (USPTO) on April 26, 2011.

The petition is **GRANTED**.

The application was held abandoned for failure to timely pay the issue fee as required by the Notice of Allowance and Fee(s) Due, mailed December 20, 2010, which set forth a three (3) month statutory period for reply. Accordingly, the Notice of Abandonment was mailed on April 4, 2011.

Petitioner states that the Applicants responded by timely paying the Issue Fee on March 21, 2011. In support of this assertion the petitioner has submitted documents, which include the following:

- Copy of Form PTOL-85B (FEE(S) TRANSMITTAL) signed by J.A. Rath
- A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all items listed thereon on the date stamped thereon by the USPTO

The petitioner has demonstrated that the Fee Transmittal was timely with Certificate of Mailing date of April 21, 2011 and is in compliance with 37 CFR 1.10 in that

(1) the Patent and Trademark Office was promptly informed of the previous timely mailing,

(2) included a statement which attests to the previous timely mailing.

In view of the foregoing, the holding of abandonment for failure to timely pay the issue fee is hereby withdrawn and the application restored to pending status.

Telephone inquires concerning this decision be directed to the undersigned in the Office of Patent Publication at 703-756-1547.

Kay D. Pinkney
Application Assistance Unit
Office of Data Management

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KOS PHARMACEUTICALS, INC.
1 CEDAR BROOK DRIVE
CRANBURY NJ 08512-3618

MAILED
MAR 30 2011
OFFICE OF PETITIONS

In re Application of	:	
Adjei et al.	:	
Application No. 11/331,386	:	DECISION ON PETITION
Filed: January 11, 2006	:	
Attorney Docket No. 100541-2005.3	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 21, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement mailed July 2, 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 August 3, 2009. A Notice of Abandonment was mailed January 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 response to the Restriction Requirement, (2) the petition fee of $1,620.00, and (3) a proper statement of unintentional delay.

Further, it is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must notify the Office. Additionally, it is not apparent whether the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute this patent application. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts.

Further, the address given on the petition differs from the address of record. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Additionally, an extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $2,350.00, five- month extension of time fee submitted with the petition on February 21, 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 1619 for appropriate action by the Examiner in the normal course of business on the reply received.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: William John Keyes
Klintworth & Rozenblat
300 W. Adams St., Suite 423
Chicago, IL 60606

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JOHN BRUCKNER PC
P.O. BOX 17569
SUGAR LAND TX 77496-7569

MAILED
NOV 30 2010
OFFICE OF PETITIONS

In re Application of	:	
STANBERY, BILLY J.	:	
Application No. 11/331,431	:	DECISION ON PETITION
Filed: 01/12/2006	:	
Attorney Docket No. 4091.014	:	

This is a decision on the petition under 37 CFR 1.181 (no fee) filed April 2, 2010, to withdraw the holding of abandonment in the above-identified application.

On February 13, 2009, the Office mailed a non-final Office action, which set a three-month shortened statutory period for reply. In the apparent absence of a timely filed response, the Office mailed a Notice of Abandonment on December 23, 2009.

A review of the record reveals that petitioner filed a timely reply to the non-final Office action accompanied by a request for an extension of time for response within the third month (and fee) on August 13, 2009; however, petitioner placed an incorrect application number (11/331,422) on the reply. The reply, request for an extension of time, and extension of time fee were located in the file of Application No. 11/331,422. Therefore, the USPTO received the reply on August 13, 2009, but it was not timely matched with the file due to the incorrect application number.

Under current Office procedure, if a paper having an incorrect application number contains sufficient information to identify the correct application and was timely received at the Office, the holding of abandonment will be withdrawn. In reviewing the papers, it is concluded that there was sufficient information thereon to associate the papers with the present application file.

For the reasons stated above, the petition is **granted**. The holding of abandonment is hereby withdrawn and the application is restored to pending status.

The $555.00 extension of time fee will be transferred from Application No. 11/331,422 to Application No. 11/331,431 in due course.

The matter is being referred to Technology Center Art Unit 1795 for appropriate action on the reply filed August 13, 2009.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3211. All other questions regarding the status of the application or the examination process should be directed to the Technology Center.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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Paper No.

NOKIA CORPORATION
c/o Ware, Fressola, Van Der
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Building Five, Bradford Green
755 Main Street, PO Box 224
Monroe CT 06468

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OFFICE OF PETITIONS

In re Application of	:	
Wang et al.	:	ON PETITION
Application No. 11/331,433	:	
Filed: January 11, 2006	:	
Atty Docket No. 944-001.146-2	:	

This is in response to the "PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER RULE 1.181" filed December 27, 2011.

The above-identified application became abandoned effective July 13, 2011 for failure to file a response to the non-final Office action mailed April 12, 2011.

Petitioner requests withdrawal of the holding of abandonment on the basis that the Office action mailed April 12, 2011 was never received at the correspondence address of record. The practitioner states that a review of our file and a review of our office records indicate that we had never received the Office action of April 12, 2011. Further, practitioner states that he made a search of the jacket file and docket records, and both indicate that the Office action of April 12, 2011 was not received between April 12, 2011 and July 12, 2011. The petition includes a copy of the docket record for the date of July 12, 2011, where the non-received Office action would have been entered had it been received. The petition includes a description of their docketing system, declarations of legal assistants who open mail and of the Docket Clerk, as well as, a mail list of all incoming correspondence for the period in question, April 12, 2011 to July 12, 2011.

Petitioner has adequately supported his claim of non-receipt.

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 2611 has been advised of this decision. The application file is, thereby, forwarded to the Technology Center's technical support staff to withdraw the holding of abandonment and for consideration by the examiner of the reply to the Office action filed on petition filed December 27, 2011.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

PTO/SB/131 (01-10)
Approved for use through 02/28/2011. OMB 0651-0020
U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH**

Attorney Docket Number: TI-39800	Patent Number: 7,668,247
Filing Date (or 371(b) or (f) Date): 01-13-2006	Issue Date: 02/23/2010
First Named Inventor: Jaiganesh Balakrishnan	
Title: METHODS AND SYSTEMS FOR PERFORMING AN OVERLAP-AND-ADD OPERATION	

PATENTEE HEREBY REQUESTS RECALCULATION OF THE PATENT TERM ADJUSTMENT (PTA) UNDER 35 USC 154(b) INDICATED ON THE ABOVE-IDENTIFIED PATENT. THE PATENTEE'S SOLE BASIS FOR REQUESTING THE RECALCULATION IS THE USPTO'S PRE-*WYETH* INTERPRETATION OF 35 U.S.C. 154(b)(2)(A).

Note: This form is only for requesting a recalculation of PTA for patents issued before March 2, 2010, if the sole basis for requesting the recalculation is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A). See Instruction Sheet on page 2 for more information.

Patentees are reminded that to preserve the right to review in the United States District Court for the District of Columbia of the USPTO's patent term adjustment determination, a patentee must ensure that he or she also takes the steps required under 35 U.S.C. 154(b)(3) and (b)(4) and 37 CFR 1.705 in a timely manner.

**Wyeth v. Kappos*, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).

Signature / Wade J. Brady III /	Date August 12, 2010
Name (Print/Typed) Wade J. Brady III	Registration Number 32,080

***Note**: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required in accordance with 37 CFR 1.33 and 11.18. Please see 37 CFR 1.4(d) for the form of the signature. If necessary, submit multiple forms for more than one signature, see below**.*

☑ *Total of 1 forms are submitted.

The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS, TX 75265

Mail Date: 08/17/2010

Applicant	: Jaiganesh Balakrishnan	: DECISION ON REQUEST FOR
Patent Number	: 7668247	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/331,463	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/13/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **964** 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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Patent No. : 7,709,884 B2
Serial No. : 11/331,473
Inventor(s) : Franz Schuler, et. al.
Issued : May 4, 2010

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322.

The alleged error on the Title page, item [30] is an editing change made in accordance with the style of the Invention Patent Manual.

In view of the foregoing, your request is hereby denied.

A certificate of correction will issue to correct the remaining error noted in your request.

Further correspondence concerning this matter should be filed and directed to decisions and Certificates of Correction Branch. Any response must be filed within a four week period along with fee of $100.00.

Eva James
For Mary Diggs
Decisions & Certificates
Of Correction Branch
(703)756-1583 or 1580

Robert K. Fergan
Brinks Hofer Gilson Lione
P.O. Box 10395
Chicago, Illinois 60610

ej

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Black, Lowe, Graham
701 5th Ave., Suite 4800
Seattle WA 98104

MAILED

NOV 0 8 2010

OFFICE OF PETITIONS

In re Application of	:	DECISION ON PETITION
William E. Luce	:	TO WITHDRAW
Application No. 11/331,506	:	FROM RECORD
Filed: January 13, 2006	:	
Attorney Docket No. **GORI-1-1010**	:	

This is a decision on the request to withdraw as attorney of record under 37 CFR § 1.36(b), filed October 19, 2010.

The request is **NOT APPROVED**.

The request cannot be approved because the Office no longer accept address changes to a new practitioner/customer number or law firm filed with a request, absent the filing of a power of attorney to the new representative.

The Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest *who properly became of record under 37 CFR 3.71,* or, if no assignee of the entire interest has properly been made of record, the most current address information provided for the first named inventor. 37 CFR 3.71(c) states:

> *An assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement in compliance with § 3.73(b) that is signed by a party who is authorized to act on behalf of the assignee.*

The assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, the statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-4584.

/JoAnne Burke/
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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BANNER & WITCOFF, LTD.
28 STATE STREET
SUITE 1800
BOSTON MA 02109-1701

MAILED

DEC 10 2010

OFFICE OF PETITIONS

In re Application of	:	
Brown et al.	:	DECISION ON PETITION
Application No. 11/331,513	:	TO WITHDRAW
Filed: January 13, 2006	:	FROM RECORD
Attorney Docket No. 005369-00099	:	

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 11, 2010.

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.*

As there is no Statement under 37 CFR 3.73(b) in the instant application, the request cannot be granted. All future communications from the Office will be directed to above-listed address until otherwise properly notified by the applicant or a proper change of correspondence address have been submitted.

There is an outstanding Office action, mailed October 27, 2010, which requires a reply. Failure to timely and properly do so will result in abandonment.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-3206. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Wells St. John P.S.
601 West First Avenue
Suite 1300
Spokane WA 99201-3828

MAILED
DEC 08 2011
OFFICE OF PETITIONS

In re Patent No. 7,284,591 :
Issue Date: October 23, 2007 :
Application No. 11/331,595 : ON PETITION
Filed: January 13, 2006 :
Attorney Docket No. WA40-062 :

This is a decision on the "PETITION TO ACCORD FILING DATE UNDER 37 CFR1.10(c)", filed November 10, 2011. This petition will be treated under 37 CFR 1.377.

The petition under 37 CFR 1.377 is **GRANTED**.

Petitioner contends that the payment of the maintenance and surcharge fees was timely submitted by Express Mail on October 24, 2011. In support, the petition is accompanied by a copy of Express Mail receipt No. EM218480634US (the same Express Mail number found on the maintenance fee transmittal) showing a "date in" of October 24, 2011.

In submitting maintenance fees and any necessary surcharges, identification of the patents for which maintenance fees are being paid must include a patent number and an application number. See 37 CFR 1.366(c).

In light of the refund of the $1,280.00, deposit account 23-0925 will be charged the $1,130.00 3.5 year maintenance and the $150.00 surcharge fees.

A maintenance fee intended for this patent was timely submitted under 37 CFR 1.362(e). It is noted that since October 23, 2011 fell on a Sunday a reply submitted on October 24, 2011 is deemed timely.

This decision constitutes the fee acceptance notification for the 3.5 year maintenance fee.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3215.

Charlema Grant
Petitions Attorney
Office of Petitions

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K&L Gates LLP
P.O. Box 1135
Chicago IL 60690-1135

MAILED
MAR 30 2011
OFFICE OF PETITIONS

In re Patent No. 7,682,328 :
Issue Date: March 23, 2010 :
Application No. 11/331,609 : DECISION ON PETITION
Filed: Janaury 16, 2006 :
Attorney Docket No. 3712044.01392 :

This is a decision on the Request To Correct Assignee Under 37 CFR 3.81(b) And Request For Certificate Of Correction, filed September 2, 2010, which is being treated as a Petition Under 37 CFR §3.81(b) to add the second assignee's name and residence. A completed Certificate of Correction Form (PTO/SB/44) was submitted with Petition.

The petition under 37 CFR §3.81(b) is **GRANTED**.

Petitioner requests that the present Petition was submitted to add the second assignee's name and residence on the previously submitted PTOL-85B. Accordingly, petitioner requests that a Certificate of Correction (PTO/SB/44) be issued to add the second assignee's name and residence to the Title Page of the Letters Patent.

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

The requisite $130.00 processing fee (Fee Code 1464), as set forth under 37 CFR 1.17(i), and the requisite $100.00 fee (Fee Code 1811), as set forth under 37 CFR 1.20(a), have been submitted. Further, Office assignment records are consistent with the requested correction. Accordingly, since the Petition complies with the provisions of 37 CFR §3.81(b), it is appropriate for the Office to issue a Certificate of Correction in accordance with the content of the form PTO/SB/44 submitted with the Petition.

Inquiries related this communication should be directed to the undersigned at (571)272-3213.

Any questions concerning the issuance of a Certificate of Correction should be directed to the Certificates of Correction Branch at (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. 7,682,328.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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MAHAMEDI PARADICE KREISMAN LLP
550 WINCHESTER BOULEVARD
SUITE 605
SAN JOSE CA 95128

MAILED

SEP 01 2010

OFFICE OF PETITIONS

In re Application of	:	
Joshua Reed Plaisted et al	:	
Application No. 11/332,000	:	DECISION GRANTING PETITION
Filed: January 13, 2006	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. KINE.P103	:	

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 6, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 3635 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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APR 14 2011

OFFICE OF PETITIONS

RYAN, MASON & LEWIS, LLP
90 FOREST AVENUE
LOCUST VALLEY NY 11560

In re Application of	:	
Donald E. Hawk, Jr. et al.	:	
Application No. 11/332,040	:	DECISION ON PETITION
Filed: January 13, 2006	:	
Attorney Docket No. **8-2**	:	

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**.

A Notice of Panel Decision from Pre-Appeal Brief Review (Notice) was mailed on July 19, 2010, that reset the time period for filing the Appeal Brief to be one-month from mailing date, with extensions of time available under 37 CFR 1.136.

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 one (1) month of the mailing date of the Notice, 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 20, 2010. See MPEP 1215.04.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an appeal brief, (2) the petition fee of $1620, and (3) a proper statement of unintentional delay. Accordingly, the reply to the Notice July 19, 2010 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 2818 for appropriate action by the Examiner in the normal course of business on the reply received.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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Zilka-Kotab, PC
P.O. BOX 721120
SAN JOSE CA 95172-1120

MAILED

MAR 08 2011

OFFICE OF PETITIONS

In re Application of :
BU, Zheng et al. :
Application No. 11/332,115 : DECISION ON PETITION
Filed: January 12, 2006 : TO WITHDRAW
Attorney Docket No. NAI1P305A/02.239.02 : FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 24, 2011.

The request is **NOT APPROVED.**

The Office will no longer accept address changes to a new practitioner or law firm filed with a Request, absent the filing of a power of attorney to the new representative. The Office will either change the correspondence address of record to the most current address information provided for the assignee of the entire interest who properly became of record under 37 CFR 3.71 or, if no assignee of the entire interest has properly been made of record under 37 CFR 3.71, the most current address information provided for the first named inventor.

Accordingly, the request to withdraw from record cannot be approved because the request to change the correspondence address is not that of: (1) the first named inventor; or (2) an assignee of the entire interest under 37 C.F.R 3.71 who has properly intervened.

If an assignee has intervened in this application, then a Statement under 37 CFR 3.73(b) or a copy of the actual assignment must be submitted with a renewed request.

All future communications from the Office will continue to be directed to the above-identified address until otherwise properly notified.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272- 2783

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions

cc: **MCAFEE, INC**
C/O LOUIS RILEY
5000 HEADQUARTERS DRIVE
PLANO, TX 75024

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United States Patent and Trademark Office
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APR 07 2011

OFFICE OF PETITIONS

Mission/BSTZ
Blakely Sokoloff Taylor & Zofman LLP
1279 Oakmead Parkway
Sunnyvale, California 94085-4040

In re Application of	:	
Mohamed A. SHAHEEN et al.	:	DECISION GRANTING PETITION
Application No. 11/332,189	:	UNDER 37 CFR 1.47(a)
Filed: 12 January 2006	:	
Atty. Docket No.: 42P17295D	:	

This is in response to the petition under 37 CFR 1.47(a), filed January 10, 2011, which is being treated as a petition under 37 CFR 1.183 requesting waiver of the requirements of 37 CFR 1.131.

The petition is **granted to the extent *infra.***

Petitioner asserts that, while all of the named inventors contributed to the conception of the claimed invention which is under rejection, only Brian Doyle, Suman Datta, Robert S. Chau, and Peter Tochinsky have agreed to execute the declaration under 37 CFR 1.131 in support of establishing conception of the claimed invention claimed in claims 45 and 55 prior to June 21, 2004.

As noted in MPEP §715.04, an adequate showing may lead to acceptance of a declaration under 37 CFR 1.131 executed by less than all of the named inventors of the claimed subject matter in question. Under the facts presented, it is agreed that justice requires waiver of the rules to the extent that they require Mohamad A. Shaheen to declare. However, the favorable decision herein does not relieve applicants from their burden to establish that the invention was completed before the date of the reference and that the claimed invention was the product of the joint inventors. *See* In re Carlson, 79 F.2d 900, 27 USPQ 400 (CCPA 1935).

A petition under 37 CFR 1.183 requires the petition fee of $400 set forth in 37 CFR 1.17(f). Petitioner has submitted $200 of the fee due. Therefore, the balance due of $200 is being charged to petitioner's Deposit Account No. 02-2666.

Telephone 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 AU 2893 for further action on the filed Response.

David Bucci
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 09/25/11

TO SPE OF : ART UNIT 3726

SUBJECT : Request for Certificate of Correction for Appl. No.: 11332192 Patent No.: 7954218

CofC mailroom date: 09/19/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580
[redacted]

Note: **Should the changes to claim 4 be approved?**

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: OK for entry.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

3726

DAVID P. BRYANT
SUPERVISORY PATENT EXAMINER

SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/332,297	01/17/2006	Jean-Luc Moutou	029300.55845US	2088

23911 7590 10/29/2010
CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON, DC 20044-4300

EXAMINER
BASQUILL, SEAN M

ART UNIT	PAPER NUMBER
1613	

MAIL DATE	DELIVERY MODE
10/29/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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OCT 2 9 2010

CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P. B. BOX 14300
Washington, DC 20044-4300

In re Application of: Jean-Luc MOUTOU	:	
Serial No: 11/332,297	:	DECISION
Filed: January 17, 2006	:	ON
Attorney Docket No: 029300.55845US	:	PETITION
Title: Process For Preparing Medrogestone	:	

This letter is in response to the Petition under 37 C.F.R. 1.144 filed on June 23, 2010.

BACKGROUND

This application was filed under 35 U.S.C. 111(a) and as such is subject to US restriction practice.

Applicant filed a claim set on January 17, 2006 which was subject to a restriction requirement on March 6, 2009.

In the restriction requirement of March6, 2009, the examiner presented the following groups:

Group I. Claims 1-12, drawn to a method of making a compound of Formula I by isomerizing a compound of Formula II
Group II. Claims 1 and 13, drawn to a method of reducing a compound of Formula III to provide a compound of Formula II
Group III. Claims 1, 13 and 14, drawn to a method of reacting a compound of Formula IV to provide a compound of Formula III

The examiner states that in inventions I and II, I and III, and II and III are directed to related processes. The inventions as claimed have a materially different mode of operation as evidenced by the additional and patentably distinct process steps required for the other group. Furthermore, the inventions as claimed do not encompass overlapping subject matter and there is nothing of record to show them to be obvious.

On June 9, 2009, applicant elected Group I, claims 1-12 with traverse. The traverse is on the ground that the restriction requirement is based on an erroneous analysis of the claims. The analysis of the claims is flawed because it fails to recognize that claims 13 and 14 are dependent claims, and therefore that claims 1 and 13 and 14 stand in the relationship of subcombination and combination.

On December 24, 2009, a FAOM was issued. Examiner states "..... traversal was considered but not found persuasive because while some of the limitations described by Claims 1-12 clearly do not require the manipulations recited in either Claims 13 or 14. As such, art searches directed to the discovery of art relating to the invention of Claims 1-12 will not reasonably lead to the discovery of art pertinent t the inventions of Claims 13 and 14."

On June 23, 2010, the present was filed and requesting reconsideration and withdraw the restriction requirement.

DISCUSSION

The petition and file history have been carefully reviewed.

Applicant urges that Groups I-III are related as combination/subcombination. Claim 14 is dependent on claim 13, which is dependent on claim 1. Applicant relied on 35 USC 112, 4th paragraph for support. 35 USC 102, 4th paragraph states ".... A claim in dependent form shall be construed to incorporate by reference all the limitations of the claim to which it refers." Applicants urged that claims 1-14 stand in the relationship of sub-subcombination, subcombination and combination.

MPEP 806.05(j) states: "To support a requirement fro restriction between two or more related process inventions, both two-way distinctness and reasons for insisting on restriction are necessary." MPEP 806.05 (c) states: "Where a combination as claimed does not require the details of the subcombination as separately claimed and the subcombination has separate utility, the inventions are distinct and restriction is proper if reasons exist for insisting upon the restriction. " Review shows that examiner has not established the subcombination has utility either by itself or in another materially different combination. Thus, two-way distinctness has not been met. Therefore, restriction between sub-subcombination, subcombination and combination is improper.

DECISION

The petition is **GRANTED** for the reasons set forth above.

The application is being forwarded to examiner for further action consistent with this decision after mailing of this decision. All claims are under examination.

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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Alexandria, VA 22313-1450
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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

MAILED

DEC 15 2010

OFFICE OF PETITIONS

In re Application of
Ich-Kien Lao, et al.
Application No. 11/332,319
Filed: January 17, 2006
Attorney Docket No. A9966

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 October 21, 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 Ellen R. Smith on behalf of all attorneys of record who are associated with customer No. 23373. All attorneys/agents associated with the Customer Number 23373 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 May 6, 2010 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

cc: INTEGRIAN ACQUISITION CORP. INC.
255 FEDERAL ROAD
BENSON, NC 27504

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/332,319	01/17/2006	Ich-Kien Lao	A9966

CONFIRMATION NO. 3458

POWER OF ATTORNEY NOTICE

OC000000044914363

23373
SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

Date Mailed: 12/10/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/21/2010.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/amwise/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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NIXON PEABODY, LLP
401 9TH STREET, NW
SUITE 900
WASHINGTON DC 20004-2128

MAILED
NOV 22 2010
OFFICE OF PETITIONS

In re Application of	:	
Shinji Maekawa et al.	:	
Application No. 11/332,351	:	DECISION ON PETITION
Filed: January 17, 2006	:	
Attorney Docket No. **740756-2919**	:	

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.

This application became abandoned for failure to timely pay the issue and publication fees on or before November 2, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed August 2, 2010. Accordingly, the date of abandonment of this application is November 3, 2010.

The petition is hereby **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of 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/
JoAnne Burke
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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PEPPER HAMILTON LLP
400 BERWYN PARK
899 CASSATT ROAD
BERWYN PA 19312-1183

MAILED
SEP 20 2010
OFFICE OF PETITIONS

In re Patent No. 7,514,425 :
Issued: April 7, 2009 : DECISION ON APPLICATION
Application No. 11/332,409 : FOR PATENT TERM ADJUSTMENT
Filed: January 13, 2006 :
Attorney Docket No.: 133087.11121 :
(102392-3P US) :

This is a decision on the "PETITION TO SUSPEND THE RULES UNDER 37 C.F.R. § 1.183" filed May 20, 2010, requesting suspension of the time limit for consideration of an application for patent term adjustment ("PTA").

This petition is hereby **DENIED**. This decision is a final agency action within the meaning of 5 U.S.C. § 704 for purposes of seeking judicial review. *See,* MPEP 1002.02.

The petition for recalculation/reconsideration of the USPTO's PTA determination for U.S. Patent No. 7514,425 is dismissed as untimely. On February 1, 2010, the USPTO published a Federal Register notice that, *inter alia*, announced a limited waiver of the two-month deadline for filing a petition for reconsideration of a PTA determination under 37 CFR sec. 1.705(d). *See Interim Procedure for Patentees to Request a Recalculation of the Patent Term Adjustment to Comply with the Federal Circuit Decision in Wyeth v. Kappos Regarding Overlapping Delay Provisions of 35 U.S.C. sec. 154(b)(2)(A)*, 75 *Fed. Reg.* 5043 (Feb. 1, 2010) (notice).

Specifically, patent owners were permitted to request recalculation of a patent's PTA in view of the Federal Circuit decision Wyeth v. Kappos, 591 F.3d 1364 (Fed. Cir. 2010) up to 180 days after the grant of the patent. The USPTO determined not to accept <u>any</u> requests for PTA recalculation initially filed more than 180 days after patent grant, however, in view of the statutory judicial-review provisions of 35 U.S.C. sec. 154(b)(4), which require that any civil action to challenge the USPTO's PTA determination be brought within 180 days of patent grant. The USPTO believes that the statutory 180-day period for seeking court review of the USPTO's PTA determinations, particularly in view of the six-year statute of limitations that otherwise is applicable for actions under the Administrative Procedure Act, indicates a congressional intent that PTA issues be

resolved shortly after a patent issues. The USPTO does not consider it likely that Congress created a scheme under which the time period to seek initial USPTO review of a PTA determination extends beyond the time period provided for a dissatisfied patentee to seek judicial review of the USPTO's PTA determination. Thus, the USPTO believes that the 180-day period in 35 U.S.C. sec. 154(b)(4) represents the outer limit on the USPTO's ability to conclude its PTA determination.

Applicants request to reconsider the September 22, 2009 decision of the Office of Petitions with respect to U.S. Patent No. 7,514,425, in accordance with the requirements of justice, is granted to the extent that the decision of September 22, 2009 has been reconsidered; however, the renewed petition requesting suspension of the time limit for consideration of an application for patent term adjustment under 37 CFR 1.183 is **DENIED**.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

Anthony Knight
Director
Office of Petitions

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MAILED

DEC 16 2010

OFFICE OF PETITIONS

REED SMITH LLP
P.O. BOX 488
PITTSBURGH, PA 15230-0488

In re Application of
Kiyonori Soutome
Application No. 11/332,421
Filed: January 13, 2006
Attorney Docket No.: 10-196-US

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed October 21, 2010.

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue and publication fees on or before October 18, 2010, as required by the Notice of Allowance and Fee(s) Due mailed July 16, 2010. On October 21, 2010, the present petition was filed. A Notice of Abandonment was subsequently mailed on October 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 the $1,510 issue fee and $300 publication fee; (2) the petition fee of $1,620; and (3) an adequate statement of unintentional delay.

The application is being referred to the Office of Data Management to be processed into a patent.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing as a patent should be directed to (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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REED SMITH LLP
P.O. BOX 488
PITTSBURGH, PA 15230-0488

MAILED

DEC 22 2010

OFFICE OF PETITIONS

In re Application of
Kiyonori SOUTOME
Application No. 11/332,421
Filed: January 13, 2006
Attorney Docket No. **10-196-US**

DECISION GRANTING PETITION
UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition under 37 CFR 1.313(c)(2), filed December 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 October 21, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 2852 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

/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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P.O. Box 1450
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FAY KAPLUN & MARCIN, LLP
150 BROADWAY, SUITE 702
NEW YORK NY 10038

MAILED
DEC 28 2010
OFFICE OF PETITIONS

In re Application of	:	
Ronald D. Adams	:	
Application No. 11/332,443	:	DECISION ON PETITION
Filed: January 13, 2006	:	
Attorney Docket No. 10121/01203	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 18, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to take appropriate action in a timely manner after the decision of September 2, 2010 by the Board of Patent Appeals and Interferences. Therefore, the proceedings as to the rejected claims were terminated. *See* 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on November 3, 2010. *See* MPEP 1214.06.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) fee of $810 and submission (an amendment), (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay. Accordingly, the RCE is accepted as being unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to Technology Center AU 3779 for appropriate action by the Examiner in the normal course of business on the reply received November 18, 2010.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
P.O. Box 1450
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KLARQUIST SPARKMAN, LLP
121 SW SALMON STREET
SUITE 1600
PORTLAND OR 97204

MAILED

SEP 07 2010

OFFICE OF PETITIONS

In re Application of :
Albert I. KO et al. :
Application No. 11/332,464 : NOTICE
Patent No. 7,718,183 :
Filed: January 17, 2006 :
Attorney Docket No. **7714-76534-01**

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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April 20, 2011

Stanford University Office of Technology Licensing
Bozicevic, Field & Francis LLP
1900 University Avenue
Suite 200
East Palo Alto CA 94303

In re Application of	:	
Howard Yuan-Ho Chang et al.	:	**DECISION ON PETITION**
Application No. 11332547	:	
Filed: 1/12/2006	:	***ACCEPTANCE OF COLOR***
Attorney Docket No. STAN-367 (S03-278)	:	***DRAWINGS***

This is a decision on the Petition to Accept Color Drawings under 37 C.F.R 1.84 (a) (2), received in the United States Patent and Trademark Office (USPTO) January 12, 2006.

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

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.
11/332,547	01/12/2006	Howard Yuan-Hao Chang	STAN-367 (S03-278)	5704

7590 04/20/2011
Stanford University Office of Technology Licensing
Bozicevic, Field & Francis LLP
1900 University Avenue
Suite 200
East Palo Alto, CA 94303

EXAMINER
AEDER, SEAN E

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

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Qualcomm Incorporated
5775 Morehouse Dr.
San Diego, CA 92121

MAILED

SEP 2 1 2010

OFFICE OF PETITIONS

In re Application of	:	
Ragulan Sinnarajah, et. al.	:	
Application No. 11/332,608	:	DECISION ON PETITION
Filed: January 12, 2006	:	
Attorney Docket No. 050114U2	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 17, 2010, to revive the above-identified application.

The petition is **dismissed**.

The application became abandoned for failure to reply in a timely manner to the Notice of Allowance and Fee(s) Due mailed March 1, 2010. A Notice of Abandonment was mailed on June 17, 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 Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lacks item(s) (1).

The Office acknowledges receipt of $1,620 for treatment of the present petition and $810 for the filing 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, publication fee or any portion thereof, the required reply must be the payment of the issue fee, publication fee or any outstanding balance thereof. *See* MPEP 711.03(c)(II)(A)(1). Therefore, the filing of a continuing application is not a proper reply under 37 CFR 1.137(a)(1) or (b)(1). Therefore, petitioner must submit $1,510 for payment of the issue fee and $300 for payment of the publication fee.

There is no indication that petitioner has submitted a Part B-Fee(s) Transmittal form (PTOL-85). Accordingly, if petitioner desires to have the information normally found thereon printed on the patent, the attached blank Fee(s) Transmittal form should be completed and returned with any renewed petition.

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.

Correspondence regarding this decision may also be filed through the electronic filing system of the USPTO.

To expedite consideration, petitioner may wish to contact the undersigned regarding the filing of the renewed petition under 37 CFR 1.137(b).

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

Enclosures: Privacy Act Statement
Blank Fee(s) Transmittal Form

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

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P.O. Box 1450
Alexandria, VA 22313-1450
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Qualcomm Incorporated
5775 Morehouse Dr.
San Diego, CA 92121

MAILED
FEB 07 2011
OFFICE OF PETITIONS

In re Application of :
Ragulan Sinnarajah, et. al. :
Application No. 11/332,608 : DECISION ON PETITION
Filed: January 12, 2006 :
Attorney Docket No. 050114U2 :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed November 22, 2010, to revive the above-identified application.

In response to the decision mailed September 20, 2010, petitioner submits the present renewed petition along with $1,510 for payment of the issue fee and $300 for payment of the publication fee on November 22, 2010.

Since the petition satisfies the requirements of 37 CFR 1.137(b), the petition is hereby **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
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MARSH, FISCHMANN & BREYFOGLE LLP
8055 EAST TUFTS AVENUE
SUITE 450
DENVER CO 80237

MAILED
MAY 25 2011
OFFICE OF PETITIONS

In re Application of
Daniel C. Wilson et al. :
Application No. 11/332,773 : ON PETITION
Filed: August 25, 2006 :
Attorney Docket No. 50196-00012

This is a decision on the petition under 37 CFR 1.137(b)[1], filed May 11, 2011, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the Final Office Action mailed October 12, 2010. A response was filed April 12, 2011 with a three month extension of time, but by Advisory Action of April 21, 2011, petitioner was advised that the response did not place the application in condition for allowance. The instant petition and this decision precede the mailing of the Notice of Abandonment.

Petitioner has submitted a Request for Continued Examination (RCE) and an amendment as the submission required under 37 CFR 1.114.

This matter is being referred to Technology Center 2427 for processing of the RCE.

Telephone inquiries related to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

[1]Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

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FULBRIGHT & JAWORSKI, LLP
666 FIFTH AVE
NEW YORK NY 10103-3198

In re Application of:	:	
TENNENBAUM, Tamar, et al.	:	DECISION ON PETITION
U.S. Application No.: 11/332,774	:	(37 CFR 1.78)
Filing Date: January 17, 2006	:	
Attorney Docket No.: HEALOR-203	:	
For: METHODS AND PHARMA-	:	
CEUTICAL COMPOSITIONS FOR	:	
HEALING WOUNDS	:	

This decision is issued in response to the "Petition Under Rule 1.78 To Accept Unintentionally Delayed Claim Of Priority Under 35 U.S.C. § 120" filed July 13, 2010 which seeks to add to the present application an unintentionally delayed claim of priority under 35 U.S.C. 120 directed to U.S. application number 09/629,970.

For the reasons discussed below, the petition is **DISMISSED AS MOOT**.

The application data sheet (ADS) filed by applicants on April 06, 2006 set forth a chain of domestic priority indicating that the present application is a continuation-in-part of PCT/IL2004/000640, which is a continuation-in-part of U.S. application number 10/644,775, which is a continuation-in-part of U.S. application number 10/169,801, which is a U.S. national stage of PCT/IL01/00675, which is a continuation-in-part of U.S. application number 09/629,970. The ADS was filed prior to the expiration of the time period specified in 37 CFR 1.78(a)(2)(ii) (i.e., less than four months after the filing of the application).

The benefit claim set forth in the ADS, including the continuation-in-part claim directed to U.S. application number 09/629,970, was recognized by the USPTO on the filing receipt mailed on August 07, 2006, and it was included in the November 16, 2006 publication of the present patent application. Under the present circumstances, the benefit claim directed to U.S. application 09/629,970 is considered to have been timely raised herein and a petition under 37 CFR 1.78(a)(3) is not required (see MPEP section 201.11(III)(D)). Accordingly, applicants' present petition is moot.

The $1,410 surcharge filed by applicants with the present petition will be refunded to applicants.

It is noted that above discussion should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed applications, including U.S. application 09/629,970. 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 filing receipt and patent application publication included the prior-filed applications should not be construed as meaning that applicants are entitled to the claim for benefit of priority to the prior filed applications noted thereon. Accordingly, the examiner will, in due course, consider the benefit claims and determine whether this application is entitled to the benefit of the earlier filing date.

The application is being referred to Group Art Unit 1635 for further examination.

/RichardMRoss/

Richard M. Ross
Attorney Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3296

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SUITE 3400
CHICAGO IL 60661

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SEP 17 2010

OFFICE OF PETITIONS

In re Patent No. 7,668,108 :
Issued: February 23, 2010 : LETTER REGARDING
Application No. 11/332,937 : PATENT TERM ADJUSTMENT
Filed: January 17, 2006 :
Attorney Docket No. 13456US03 :

This is a decision on the "REQUEST FOR RECONSIDERATION OF USPTO RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF WYETH" filed on June 11, 2010, requesting that the patent term adjustment indicated on the above-identified patent be corrected from 664 days to 665 days.

The request for review of the patent term adjustment is **DISMISSED.**

Patentees are given **THIRTY (30) DAYS or ONE (1) MONTH, whichever is longer,** from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The patent term adjustment indicated in the patent is properly reflected.

The patent term adjustment calculation has been reviewed. Patentees have miscalculated the delay pursuant to 37 CFR § 1.704(c)(10). The first day of the calculation is December 15, 2009, the date the drawings were filed and ends on February 23, 2010, the date the response (Patent Grant) was mailed, considering the overlap of the drawings filed December 15, 2009 and the Declaration filed January 14, 2010, for a total of 71 days.

As stated in M.P.E. P. 2732

37 CFR 1.703 specifies the period of adjustment if a patent is entitled to patent term adjustment under 35 U.S.C. 154(b)(1) and 37 CFR 1.702. 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." For example, a period beginning on April 1 and ending on April 10 is ten (and not nine) days in length.

35 U.S.C. 154(b)(1)(A) and (B) provide for an adjustment of one day for each day after the end of the period set forth in 35 U.S.C. 154(b)(1)(A)(i), (ii), (iii), (iv), and (B) until the prescribed action is taken, whereas 35 U.S.C. 154(b)(1)(C) provides for an adjustment of one day for each day of the pendency of the proceeding, order, or review prescribed in 35 U.S.C. 154(b)(1)(C)(i) through (iii). Therefore, the end of the period set forth in 37 CFR 1.703(a) and 1.703(b) (which correspond to 35 U.S.C. 154(b)(1)(A) and (B)) is "day zero" (not "day one") as to the period of adjustment, whereas the first day of the proceeding, order, or review set forth in 37 CFR 1.703(c), 1.703(d), and 1.703(e) (which correspond to 35 U.S.C. 154(b)(1)(C)(i) through (iii)) is "day one" of the period of adjustment.

As such, the total patent term adjustment is six hundred sixty-four days.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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CINCINNATI OH 45202

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OFFICE OF PETITIONS

In re Patent No. 7,681,337 :
Issue Date: March 23, 2010 :
Application No. 11/333,048 : DECISION ON PETITION
Filed: January 17, 2006 :
Attorney Docket No. DDY/113 :

This is a decision on the Request For Certificate Of Correction Of Patent for PTO Mistake (37 C.F.R. §1.322(a)), filed on August 26, 2010, requesting correction on the Title Page of the subject patent to identify the correct assignee's name. The Request is being treated as a Petition under 37 CFR §3.81(b). A completed Certificate of Correction Form (PTO/SB/44) was submitted with the petition.

The petition under 37 CFR §3.81(b) is **DISMISSED**.

Petitioner requests, in effect, that the Title Page of the above-identified patent be corrected, via issuance of a Certificate of Correction, to correct the assignee's name.

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.

A petition under 37 CFR 3.81(b) requires a certification of correction fee of $100.00 (Fee Code 1811) as set forth under 37 CFR 1.20(a) and a petition processing fee of $130.00 (Fee Code 1464), as set forth under 37 CFR 1.17(i). The petition lacks both fees. For this reason, the petition is dismissed.

Inquiries related this communication should be directed to Cheryl Gibson-Baylor at (571)272-3213.

Cheryl Gibson-Baylor

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Patent No. 7,681,337 :
Issue Date: March 23, 2010 :
Application No. 11/333,048 : DECISION ON PETITION
Filed: January 17, 2006 :
Attorney Docket No. DDY/113 :

This is a decision on the renewed Request To Correct Assignee Under 37 CFR 3.81(b), filed December 30, 2010, which is being treated as a Petition Under 37 CFR §3.81(b), to identify the correct assignee's name on the front page of the above-identified patent by way of a Certificate of Correction.

The petition under 37 CFR §3.81(b) is **GRANTED**.

The petition decision mailed November 1, 2010, dismissed the 37 CFR §3.81(b) petition filed August 26, 2010, because the required certificate of correction and petition fees were not submitted with the petition. The renewed petition includes the petition fee, as well as, petitioner stating that the $100 certificate of correction fee was previously paid by credit card. A review of office record shows that the certificate of correction fee has not been paid by credit card. Therefore, the $100.00 certificate of correction fee will be charged to deposit account.

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. 7,681,337.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

-Paper No.: _____

DATE : March 10, 2011

TO SPE OF : ART UNIT 2875

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/333133 / patent no 7862213

CofC mailroom date: 2-22-10

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

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: _____

_____

_____

_____ 2875

SPE **Art Unit**

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Paper No.

Snell & Wilmer L.L.P., (Komaromy)
One Arizona Center
400 East Van Buren Street
Pheonix AZ 85004-2202

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OFFICE OF PETITIONS

In re Patent No. 7,643,852	:	DECISION DISMISSING REQUEST
Noll et al.	:	FOR RECONSIDERATION OF
Issue Date: January 5, 2010	:	PATENT TERM ADJUSTMENT
Application No. 11/333,193	:	AS MOOT
Filed: January 17, 2006	:	
Atty Docket No. 94022.8900	:	

This is a decision on the petition filed on May 17, 2010, pursuant to 37 C.F.R. § 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by seven hundred and eight (708) days.

On February 1, 2010, Patentee filed a Request for Recalculation of Patent Term Adjustment in view of Wyeth. On April 20, 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 634 days. On May 17, 2010, Patentee filed the present petition requesting an adjustment of 708 days, and on this same date, the Office mailed a "NOTICE CONCERNING IMPROPER CALCULATION OF PATENT TERM ADJUSTMENT BASED UPON USPTO IMPROPERLY MEASURING REDUCTION PERIOD UNDER 37 CFR 1.704(c)(10)," vacating the April 20, 2010 mailing, and indicating that the patent term adjustment had been determined to be 708 days.

It follows that this 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 eight (708) days is **DISMISSED AS MOOT**.

The $200 fee under 37 C.F.R. § 1.18(e) is unnecessary, and will be refunded to Deposit Account No. 19-2814 in due course.

It is noted that the third paragraph of the notice of May 17, 2010 indicated that "[t]he USPTO will *sua sponte* issue a certificate of correction reflecting" the 708-day adjustment. Emphasis included. Office records indicate that said certificate of correction was issued on June 22, 2010.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3225.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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NEW YORK NY 10017

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NOV 05 2010

OFFICE OF PETITIONS

In re Application of
Steven E. Summer
Application No. 11/333,457
Filed: January 17, 2006
Title of Invention:
RADIATION-TOLERANT ELECTRICAL COMPONANT WITH NON-RADIATION HARDENED FET

ON PETITION

This is a decision on the petition filed October 1, 2010, under 37 CFR 1.137(a), to revive the above identified application.

The petition is **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 "Petition under 37 CFR 1.137." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

This application became abandoned April 30, 2010 for failure to file a timely response to the Final Office Action mailed January 29, 2010, which set a three month period for reply. Accordingly, a Notice of Abandonment was mailed September 8, 2010.

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof;
(2) the petition fee as set forth in § 1.17(l);
(3) a showing to the satisfaction of the Director that the entire delay in filing

> the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and
> (4) any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (c) of this section.

This petition lacks item (3) above.

SHOWING OF UNAVOIDABLE DELAY

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.[1]

The showing of record is inadequate to establish unavoidable delay within the meaning of 37 CFR 1.137(a). Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure or mail, telegraph, telefacsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.[2]

In this instance, form PTO/SB/61, that used for a petition under the unavoidable standard, has been filed indicating a petition fee in the amount of $540, which is the large entity fee for a petition under the unavoidable standard. However, petitioner has not stated a claim for which relief can be granted with the appropriate showings under

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[1] 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).

[2] Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

the unavoidable standard of review. As a result, this petition cannot be considered on the merits.

In view thereof, a petition properly stating a claim for which relief can be granted and the appropriate showing is due before a petition to revive on the merits can be addressed and granted. The application will therefore remain in an abandoned status until such time as a grantable petition is filed.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

By FAX: (571)273-8300

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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NEW YORK NY 10017

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OFFICE OF PETITIONS

In re Application of
Steven E. Summer
Application No. 11/333,457
Filed: January 17, 2006
Title of Invention:
RADIATION-TOLERANT ELECTRICAL COMPONANT WITH NON-RADIATION HARDENED FET

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b)[1], filed March 7, 2011, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned April 30, 2010 for failure to file a timely response to the Final Office Action mailed January 29, 2010, which set a three month period for reply. Accordingly, a Notice of Abandonment was mailed September 8, 2010.

A Petitioner has submitted a Request for Continued Examination (RCE) and an amendment as the submission required under 37 CFR 1.114.

This matter is being referred to Technology Center 2838 for processing of the RCE.

Telephone inquiries related to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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[1]Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Director may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

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WOODS FULLER SHULTZ & SMITH P.C.
ATTN: JEFFREY A. PROEHL
P.O. BOX 5027
SIOUX FALLS SD 57117

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SEP 21 2010

OFFICE OF PETITIONS

ON PETITION

In re Application of
Kisch et al.
Application No 11/333,469
Filed: January 17, 2006
Attorney Docket No. 29-0666

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed June 30, 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 August 7, 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 extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is November 8, 2008. A Notice of Abandonment was mailed March 18, 2009. A petition filed under 37 CFR 1.137(b) was dismissed on June 15, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of 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 3635 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

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LOS ANGELES CA 90064

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AUG 18 2010

OFFICE OF PETITIONS

In re Application of	:	
Cunius.	:	
Application No. 11/333,566	:	DECISION
Filed/Deposited: 17 January, 2006	:	
Attorney Docket No. DE113	:	

This is a decision on the petition filed on 29 June, 2010, to revive an application under 37 C.F.R. §1.137(b) as having been abandoned due to unintentional delay.

The petition under 37 C.F.R. §1.137(b) is **GRANTED**.

As to the Allegations
of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement and/or showing of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee. (It does not appear that a terminal disclaimer and fee are required here.)

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the Notice of Allowance/Allowability and Fees Due mailed on 24 March, 2010, with reply due under a non-extendable deadline on or before 24 June, 2010.

The application went abandoned by operation of law after midnight 24 June, 2010.

It does not appear that the Office mailed a Notice of Abandonment before a petition was filed.

On 29 June, 2010, Petitioner filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.137(b), averring unintentional delay, with reply in the form of fees due, and made the statement of unintentional delay.

The Office mailed a Notice of Abandonment on 8 July, 2010.

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 also, by definition, are not intentional.[3]))

As to Allegations of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee.

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[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

[2] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[3] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

It appears that the requirements under the rule have been satisfied.

CONCLUSION

Accordingly, the petition pursuant to 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to Publications Branch to be processed into a patent 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 Publications Branch in response to this decision. It is noted that all inquiries with regard to status need be directed to the Publications Branch where that change of status must be effected—that does not occur in the Office of Petitions.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[4]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[4] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450

MAILED
AUG 31 2011
OFFICE OF PETITIONS

QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO CA 92121

In re Application of	:	
Vladimir PARIZHSKY et al.	:	ON PETITION
Application No. 11/333,759	:	
Filed: January 17, 2006	:	
Atty. Docket No.: 060641		

This is a decision on the petition under 37 CFR 1.137(b), filed August 15, 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 26, 2010 (outstanding Office action), which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. The application became abandoned February 27, 2011. A Notice of Abandonment was mailed June 23, 2011.

The petition satisfies the conditions for revival pursuant to 37 CFR 1.137(b) by including (1) a reply in the form of a Response to the outstanding Office action mailed November 26, 2010, (2) a petition fee of $1620, and (3) a statement of unintentional delay. The reply to the outstanding Office action is accepted as having been unintentionally delayed.

Telephone inquires regarding this decision should be directed to Robert DeWitty, Petitions Attorney, Office of Petitions (571-272-8427).

The application will be referred to Technology Center Art Unit 2611 for further consideration of the filed Response.

Ramesh Krishnamurthy

for Anthony Knight
Director
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 07/15/11

TO SPE OF : ART UNIT 2129

SUBJECT : Request for Certificate of Correction for Appl. No.: 11333768 Patent No.: 7610251

CofC mailroom date: 07/07/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580
[redacted]

Note: **Should Claim 27 be approved?**

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

X **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

/Kakali Chaki/ 2122

SPE **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 07/15/11

TO SPE OF : ART UNIT 2129

SUBJECT : Request for Certificate of Correction for Appl. No.: 11333768 Patent No.: 7610251

CofC mailroom date: 07/07/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580
You can fax the Directors/SPE response to 571-273-3421

Note: **Should Claim 27 be approved?**

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

X **Approved**	**All** changes apply.
❑ **Approved in Part**	Specify below which changes **do not** apply.
❑ **Denied**	State the reasons for denial below.

Comments:

/Kakali Chaki/ 2122

SPE **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 04/02/12

TO SPE OF : ART UNIT 1759

SUBJECT : Request for Certificate of Correction for Appl. No.: 11333780 Patent No.: 7363959

CofC mailroom date: 03/19/12

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 Directors/SPE response to 571-273-3421

Note: Should the Related U.S. Application Data be deleted?

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: _____

JONATHAN JOHNSON
SUPERVISORY PATENT EXAMINER

SPE

1720

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

DANIEL W. SULLIVAN, ESQUIRE
DENTSPLY INTERNATIONAL INC.
570 WEST COLLEGE AVENUE
P.O. BOX 872
YORK PA 17405-0872

MAILED

NOV 02 2010

OFFICE OF PETITIONS

In re Application of	:	
Lint et al.	:	
Application No. 11/333,970	:	ON PETITION
Filed: January 17, 2006	:	
Attorney Docket No. DPD-7322-A	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed September 13, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuing application, (2) the petition fee of $1620.00, and (3) a proper statement of unintentional delay.

The above-identified application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving the above-identified application, the above-identified application is again abandoned in favor of continuing application No. 12/925,523.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P.O. BOX 3001
BRIARCLIFF MANOR, NY 10510

MAILED

AUG 09 2010

OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
Dobak et al.	:	
Application No. 11/333,986	:	
Filed: January 17, 2006	:	
Attorney Docket No. 014476US1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 19, 2010, to revive the above-identified application.

The petition is **GRANTED**.

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 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 $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 the undersigned at (571) 272-6059.

This application is being referred to Technology Center 3739 for further examination on the merits

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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BLACK LOWE & GRAHAM, PLLC
701 FIFTH AVENUE
SUITE 4800
SEATTLE WA 98104

MAILED
APR 20 2011
OFFICE OF PETITIONS

In re Application of	:	
Murray, David K.	:	
Application No. 11/334,033	:	ON PETITION
Filed: January 17, 2006	:	
Attorney Docket No. TAXN-1-1002	:	

This is a decision on the petition under the unavoidable provisions of 37 CFR 1.137(a), filed November 9, 2010, to revive the above-identified application.

The petition is **DISMISSED.**

Any further petition to revive must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)." This is **not** a final agency action within the meaning of 5 U.S.C.§ 704.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of April 13, 2010. The proper reply required to a final Office action 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 such reply was received. No such reply was received. A three-month extension of time under the provisions of 37 CFR 1.136(a) was obtained on September 29, 2010. Accordingly, the application became abandoned on October 14, 2010.

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d). The instant petition lacks item (3).

On September 29, 2010, petitioner filed a Pre-Appeal Brief Request for Review. On October 5, 2010, a Notice of Non-Compliant Pre-Appeal Brief Request for Review was mailed, stating that the Request for not filed concurrently with a proper Notice of Appeal. Petitioner states, "On 10/12/10 (5 days after the Notice of Panel Decision from the Pre-appeal Brief was received), we received a Notice of Panel Decision from the Pre-appeal Brief Review Board indicating our application remained under appeal and the date to file an appeal was set 30 days from the mailing dated of 10/12/10. We believed the Notice of Panel Decision superceded the Notice of Non-Compliant Pre-appeal Brief."

A review of the application file indicates that the instant application had two different periods for reply running against it. These two periods for reply were from: (1) the mailing of the Notice of Non-Compliant Pre-Appeal Brief Request for Review which set forth that the time period for filing a reply continued to run from the mail date of the last Office communication, i.e., the final Office action mailed April 13, 2010; and (2) the mailing of the Notice of Panel Decision from Pre-Appeal Brief Review which set forth that the time period for filing of the 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. The first time period is a statutory time period and the second time period is a non-statutory period. As set forth in MPEP 710.04:

> There sometimes arises a situation where two different periods for reply are running against an application, the one limited by the regular statutory period, the other by the limited period set in a subsequent Office action. The running of the first period is not suspended nor affected by an ex parte limited time action or even by an appeal therefrom.

A delay resulting from the lack of knowledge or improper application of the patent statute, rules of practice or the MPEP does not constitute an "unavoidable" delay. *See* Haines v. Quigg, 673 F. Supp. 314, 317, 5 USPQ2d 1130, 1132 (N.D. Ind. 1987), Vincent v. Mossinghoff, 230 USPQ 621, 624 (D.D.C. 1985); Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (1891). A delay caused by an applicant's lack of knowledge or improper application of the patent statute, rules of practice or the MPEP is not rendered "unavoidable" due to: (1) the applicant's reliance upon oral advice from Office employees; or (2) the Office's failure to advise the applicant of any deficiency in sufficient time to permit the applicant to take corrective action. *See* In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985); *see also* In re Colombo, Inc., 33 USPQ2d 1530, 1532 (Comm'r Pat. 1994) (while the Office attempts to notify applicants of deficiencies in their responses in a manner permitting a timely correction, the Office has no obligation to notify parties of deficiencies in their responses in a manner permitting a timely correction).

If petitioner cannot provide the evidence necessary to establish unavoidable delay, or simply does not wish to, petitioner may wish to consider filing a petition stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the $810.00 petition fee.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By facsimile: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries concerning this decision should be directed to Petitions Examiner Liana Walsh at (571) 272-3206.

/dab/
David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BLACK LOWE & GRAHAM, PLLC
701 FIFTH AVENUE
SUITE 4800
SEATTLE WA 98104

MAILED
JUL 19 2011
OFFICE OF PETITIONS

In re Application of	:	
Murray, David K.	:	
Application No. 11/334,033	:	ON PETITION
Filed: January 17, 2006	:	
Attorney Docket No. TAXN-1-1002	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed June 15, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal and Pre-Appeal Brief Request for Review, (2) the petition fee of $1620.00, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center AU 3695 for further processing.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAILED

DEC 15 2010

OFFICE OF PETITIONS

ST. ONGE STEWARD JOHNSTON & REENS, LLC
986 BEDFORD STREET
STAMFORD CT 06905-5619

In re Application of	:	
Wesley W. Whitmyer, Jr.	:	
Application No. 11/334,246	:	NOTICE
Filed: January 18, 2006	:	
Attorney Docket No. 3000-P0037A	:	

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

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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VERIZON LEGAL DEPARTMENT
PATENT MANAGEMENT GROUP
1320 N. COURTHOUSE ROAD
9TH FLOOR
ARLINGTON, VA 22201-2525

MAILED
DEC 10 2010
OFFICE OF PETITIONS

In re Application of	:	
Scott E. Roy, et al.	:	
Application No. 11/334,543	:	DECISION GRANTING PETITION
Filed: January 19, 2006	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 05-8015	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed December 10, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on November 3, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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 3625 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No.

McCarthy Tetrault LLP
Box 48
Suite #4700
Toronto Dominion Bank Tower
TORONTO ON
M5K 1E6
CANADA

MAILED
JUN 21 2011
OFFICE OF PETITIONS

In re Application of	:	
Cymbala et al.	:	DECISION ON
Application No. 11/334,555	:	PETITION
Filed: January 19, 2006	:	
Atty Docket No. T00719-0010-US	:	

This is a decision on the PETITION TO REVIVE APPLICATION DUE TO UNINTENTIONAL ABANDONMENT PURSUANT TO 37 CFR 1.137(b)) filed April 13, 2011.

The petition is **GRANTED**.

The above-identified application was abandoned for failure to timely file a proper reply to the final Office action mailed October 4, 2010. This Office action set a shortened statutory period for reply of three (3) months from the mail date of the action. No reply having been received and no extension of time obtained, the application became abandoned effective January 5, 2011. A courtesy Notice of Abandonment was mailed on May 24, 2011.

On petition, petitioner submitted a Request for Continued Examination (RCE) and submission under §1.114 (in the form of an amendment)(and RCE fee); paid the petition fee; and made the required statement of unintentional delay.

Technology Center AU 3635 has been advised of this decision. The application is, thereby, forwarded to the examiner for consideration of the RCE and submission submitted on April 13, 2011.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAILED
AUG 08 2011
OFFICE OF PETITIONS

THOMPSON HINE L.L.P.
Intellectual Property Group
P.O. BOX 8801
DAYTON OH 45401-8801

In re Patent No. 7,958,569	: DECISION ON REQUEST FOR
RAZZAGHI et al.	: RECONSIDERATION OF
Issue Date: June 14, 2011	: PATENT TERM ADJUSTMENT
Application No. 11/334,580	: AND
Filed: January 18, 2006	: NOTICE OF INTENT TO ISSUE
Attorney Docket No. 520219-00305	: CERTIFICATE OF CORRECTION

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT (37 C.F.R. 1.705(d)), filed July 15, 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 one hundred thirty-nine (1139) 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 thirty-nine (1139) days is **GRANTED**.

The Office acknowledges the submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of 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 thirty-nine (1139) days**.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,958,569 B2

DATED : Jun. 14, 2011 **DRAFT**

INVENTOR(S) : RAZZAGHI 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 1077 days.

Delete the phrase "by 1077 days" and insert – by 1139 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

JAMES W. MILLER, ATTORNEY
527 MARQUETTE AVENUE
SUITE 1960, RAND TOWER
MINNEAPOLIS MN 55402

MAILED

OCT 06 2011

OFFICE OF PETITIONS

In re Patent No. 7,624,706 :
Issue Date: December 1, 2009 :
Application No. 11/334,612 : NOTICE
Filed: January 18, 2006 :
Attorney Docket No. 133.1.3./USA :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed September 21, 2011. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby accepted. The petition is **GRANTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

This file is being forwarded to Files Repository.

Telephone inquiries related to this decision should be directed to the Kimberly Inabinet at (571) 272-4618.

/Kimberly Inabinet/
Kimberly Inabinet
Petitions Examiner
Office of Petitions

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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LAW OFFICES OF ALBERT WAI-KIT CHAN, PLLC
141-07 20TH AVENUE
WORLD PLAZA, SUITE 604
WHITESTONE NY 11357

MAILED
FEB 10 2011
OFFICE OF PETITIONS

In re Application of	:
Nai-Kong V. Cheung	: DECISION ON APPLICATION
Application Number: 11/334,763	: FOR PATENT TERM ADJUSTMENT
Filing Date: 01/17/2006	:
Attorney Docket Number:	:
639-E-US	:

This letter is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT," filed on November 3, 2010, which is treated as a petition under 37 CFR 1.705(b). Applicant requests that the initial determination of patent term adjustment under 35 U.S.C. § 154(b) be increased by 9 days from 128 days to 137 days.

The application for patent term adjustment is **DISMISSED**.

On October 13, 2010, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. §154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 128 days (404 days of Office delay reduced by 276 days of applicant delay). The subject application for patent term adjustment was timely filed on November 3, 2010.[1]

Applicant disputes the reduction of 9 days for the filing of a supplemental response, (in this case, an Information Disclosure Statement (IDS)) on April 30, 2010, nine (9) days after the filing of a reply on April 21, 2010.

Applicant asserts that the IDS contains the statement in accordance with 37 CFR 1.97(e). Further, the present petition is accompanied by a statement under 37 CFR 1.704(d). Applicant

[1] PALM records show that the Issue Fee was received on November 3, 2010.

asserts that the submission of the IDS filed on April 30, 2010 should not be considered a failure to engage in reasonable efforts to conclude prosecution of the application.

37 CFR 1.704(c)(8) states:

> Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping: Submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the initial reply was filed and ending on the date that the supplemental reply or other such paper was filed.

37 CFR 1.704(d) states:

> 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.

A review of the record reveals that on April 30, 2010, an IDS was filed, 9 days after the day after the date a reply was filed, April 22, 2010, in response to an Office action. The IDS was not accompanied by the statement set forth at 37 CFR 1.704(d).

Applicant's argument that the 9 day period of reduction for applicant delay should be removed is unavailing. It is

undisputed that the IDS was not accompanied by the statement set forth under § 1.704(d). Further, there is no provision in the rules for the Office to accept a statement under § 1.704(d) which did not accompany (*i.e.*, was not filed contemporaneously with) the IDS. Accordingly, the reduction of 9 days for applicant delay is proper and will not be removed.

In view thereof, no adjustment will be made to the determination of patent term adjustment at the time of the mailing of the notice of allowance.

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 acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The Office of Data Management has been advised of this decision. The application is thereby forwarded to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and if applicable, for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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MAILED
FEB 03 2011
OFFICE OF PETITIONS

In re Application of	:	
Strickland, et al.	:	DECISION DISMISSING PETITION
Application No. 11/334,822	:	UNDER 37 CFR 1.183
Filed: January 19, 2006	:	
Atty. Dkt. No. STRI3003RE/JEK	:	

The instant application has been referred to the Office of Petitions for consideration of the petition filed November 22, 2010 under 37 CFR 1.47. This matter is being properly treated pursuant to 37 CFR 1.183 a petition to waive the requirements of 37 CFR 1.175. The required petition fee of $400.00 as been charged to the authorized deposit account.

Petitioners requests waiver of the requirement that all joint inventors sign any supplemental declaration in a broadening reissue application.

BACKGROUND

1. U.S. Patent No. 6,679,265 (the '265 patent) issued to Strickland, et al. on January 20, 2004.

2. A broadening reissue application (the present application) was filed on January 19, 2006, for the reissue of the '265 patent, and it was assigned application number 11/334,822. The reissue declaration to support the filed reissue application was not signed by all of the joint inventors and was therefore accorded Rule 47 status with respect to non-signing inventor Wood.

3. A supplemental reissue declaration under 37 CFR 1.175(b)(1) was filed November 22, 2010, along with the present petition under 37 CFR 1.183 requesting acceptance of the supplemental reissue declaration signed by less than all of the joint inventors.

4. The petition is accompanied by a supplemental reissue application declaration by the inventors, signed by one of the three inventors named in the application. The declaration is not signed by joint inventors Wood and Lee. It is for this supplemental declaration that the petition requests acceptance, via suspension or waiver of the regulations.

5. The petition proffers a showing for the purpose of establishing that the inventors are unavailable to sign the supplemental reissue declaration. The petition sets forth (a) the efforts made on behalf of the assignee to contact the inventors and obtain the requisite signatures on the supplemental declaration, and (b) the lack of success of such efforts.

6. Petitioners have demonstrated that joint inventors Wood and Lee are either unavailable or have refused to execute the supplemental reissue declaration.

DECISION

35 U.S.C. 251, which is directed to reissue, does not address the signature requirements of a declaration in reissue. 37 CFR 1.172 requires that a reissue declaration be made (and signed) by the inventors, except as otherwise provided (§§ 1.42, 1.43, 1.47), where the scope of the claims of the original patent is being enlarged. 37 CFR § 1.175(b)(1), requires that:

> "For any error corrected, which is not covered by the oath or declaration submitted under paragraph (a) of this section, applicant must submit a supplemental oath or declaration stating that every such error arose without any deceptive intention on the part of the applicant."

37 CFR 1.175(b)(1), taken in conjunction with 37 CFR 1.172, requires a supplemental declaration to be signed by all inventors. This is because all oaths or declarations necessary to fulfill the rule requirements in a reissue application are taken together collectively as a single oath or declaration. Thus, each oath and/or declaration must bear the appropriate signature of the inventor(s).

37 CFR 1.183 permits, in an extraordinary situation, waiver of a rule which is not a requirement of the statute, where justice requires such waiver, and applicant has requested a waiver of the requirement that the 37 CFR 1.175 supplemental declaration be signed by all of the inventor.

The petition and supporting documentation provide a sufficient showing that the inventors have either refused to sign the supplemental reissue declaration or are unavailable to sign the supplemental reissue declaration.

CONCLUSION

In view thereof, the petition under 37 CFR 1.183 is GRANTED.

This application is being forwarded to Group Art Unit 3771 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3215.

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 20110222

DATE : 1-21-11

TO SPE OF : ART UNIT ~~2863~~ 2857

SUBJECT : Request for Certificate of Correction for Appl. No.: 11334876 Patent No.: 7774145

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: _____

DREW A. DUNN
SUPERVISORY PATENT EXAMINER
SPE

2857
Art Unit

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BLANK ROME LLP
WATERGATE
600 NEW HAMPSHIRE AVENUE, N.W.
WASHINGTON, DC 20037

MAILED
JUL 01 2011
OFFICE OF PETITIONS

In re Application of :
Steven A. Root et al :
Application No. 11/334,898 : ON PETITION
Filed: January 19, 2006 :
Attorney Docket No. 134602.0104

This is a decision on the petition, filed July 1, 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 May 16, 2011 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2617 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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New York, NY 10036

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MAR 25 2011
OFFICE OF PETITIONS

In re Patent of Miles et al.	:	
Patent No. 7,826,629	:	
Issue Date: November 2, 2010	:	Decision on Petition
Application No. 11/335,137	:	
Filing Date: January 19, 2006	:	
Attorney Docket No. P/5739-15(V17570)	:	

This is a decision in response to the paper filed November 24, 2010, which is being treated as a request under 37 CFR 3.81 to accept the correction of the assignee data on the front page of the above-identified patent.

The request under 37 CFR 3.81 is **dismissed**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. The reconsideration request should include a cover letter entitled "Renewed Request Under 37 CFR 3.81(b)."

Patentees filed an issue fee transmittal form on September 22, 2010, which identified the assignee as "State University New York" and the residence of the assignee as "Binghamton, NY." As a result, the first page of the instant patent includes the following language:

Assignee: State University New York
Binghamton, NY (US)

Patentees request issuance of a certificate of correction replacing the language above with the following language:

Assignee: The Research Foundation of State University of New York; and
Georgia Tech Research Corporation

A request for a patent to be corrected by adding or amending assignee information on the patent must:

(1) Include the fee set forth in 37 CFR 1.17(i),

(2) State an assignment to the assignee was submitted for recordation prior to issuance of the patent, and
(3) Be accompanied by a request for a certificate of correction under 37 CFR 1.323 and the fee set forth in 37 CFR 1.20(a).

See 37 CFR 3.81(b).

The request satisfies requirement (1). Specifically, the $130 fee set forth in 37 CFR 1.17(i) has been charged to Deposit Account No. 15-0700 per the general fee authorization in the request.

The request does not satisfy requirement (2). The request does not state an assignment to The Research Foundation of State University of New York and an assignment to Georgia Tech Research Corporation were recorded prior to issuance of the patent.

The request does not appear to satisfy requirement (3). Although the request and draft certificate of correction identify the names of the two assignees, neither document identifies an address for either assignee.

Further correspondence with respect to this matter may be submitted as follows:

By Internet: A request for reconsideration may be filed electronically using EFS Web.[1] Document Code "PET.OP" should be used if the request is filed electronically.

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
Attn: Office of Petitions

By hand: U.S. Patent and Trademark Office
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

[1] General Information concerning EFS Web can be found at http://www.uspto.gov/patents/process/file/efs/index.jsp.

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JUN 14 2011
OFFICE OF PETITIONS

In re Patent of Miles et al. :
Patent No. 7,826,629 :
Issue Date: November 2, 2010 :
Application No. 11/335,137 :
Filing Date: January 19, 2006 :
Attorney Docket No. P/5739-15(V17570) :

Decision on Petition

This is a decision on the petition filed May 25, 2011, which is being treated as a petition under 37 C.F.R. § 1.183.

The petition under 37 C.F.R. § 1.183 is **dismissed**.

Patentees filed an issue fee transmittal form on September 22, 2010, which included an Assignee Name and Residence Data section. The initial portion of the section states, "If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11." Even though a document assigning rights in the application to "State University New York" had never been recorded, Patentees identified the assignee as "State University New York" on the issue fee transmittal form below the previously quoted language.

The patent issued November 2, 2010. The first page of the instant patent identifies the assignee as State University New York.

The inventors of record are Ronald Miles and Levent Degertekin. Miles assigned his rights to Research Foundation of State University of New York on November 15, 2010, and the assignment was recorded on November 24, 2010. Degertekin assigned his rights to the Georgia Tech Research Corporation on November 23, 2010, and the assignment was recorded on November 24, 2010.

Patentees seek issuance of a certificate of correction to replace State University of New York with The Research Foundation of State University of New York ("RF")[1] and Georgia Tech Research Corporation ("GA Tech").

[1] The Office notes the assignment recorded on November 24, 2010, does not include the word "The" as the first word in the assignee's name.

The Office's authority to issue certificates of correction is set forth in 35 U.S.C. §§ 254 and 255. 35 U.S.C. § 254 states,

> Whenever a mistake in a patent, incurred through the fault of the Patent and Trademark Office, is clearly disclosed by the records of the Office, the Director may issue a certificate of correction.

35 U.S.C. § 255 states,

> Whenever a mistake of a clerical or typographical nature, or of minor character, which was not the fault of the Patent and Trademark Office, appears in a patent ... the Director may, upon payment of the required fee, issue a certificate of correction.

As indicated in both 35 U.S.C. §§ 254 and 255, the Office is allowed to issue certificates of correction to correct *mistakes*. A failure to list an entity as an assignee when issuing a patent is not a "mistake" if the entity is not an assignee when the patent is issued.

As of the date the patent issued, Miles had not assigned his rights in the application to RF. Therefore, the absence of RF's name on the patent is not a mistake that can be corrected via issuance of a certificate of correction. As of the date the patent issued, Degertekin had not assigned his rights in the application to GA Tech. Therefore, the absence of GA Tech name on the patent is not a mistake that can be corrected via issuance of a certificate of correction.

Patentees have filed a petition under 37 C.F.R. § 1.183, which the Office is broadly construing to be a request to waive any regulatory requirements necessary to permit issuance of the requested certificate of correction.

37 C.F.R. § 1.183 states the Office may waive or suspend "any requirement of the regulations in this part which is not a requirement of the statutes." The requirement for a certificate of correction to correct a mistake is a statutory requirement. Therefore, the requirement cannot be waived.

In view of the prior discussion, the petition under 37 C.F.R. § 1.183 and the request for issuance of the certificate of correction filed May 24, 2011, are dismissed.

The required $400 fee for a petition under 37 C.F.R. § 1.183 has been charged to Deposit Account No. 15-0700.

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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In re Patent of Miles et al. :
Patent No. 7,826,629 :
Issue Date: November 2, 2010 : Decision on Petition
Application No. 11/335,137 :
Filing Date: January 19, 2006 :
Attorney Docket No. P/5739-15(V17570) :

This is a decision on the petition filed July 14, 2011, which is being treated as a petition under 37 C.F.R. § 1.183.

The petition under 37 C.F.R. § 1.183 is **dismissed**.

BACKGROUND

Application No. 11/335,137 was filed January 19, 2006.

The issue fee and an issue fee transmittal form were filed September 22, 2010. The form included the following language:

(A)	Name of Assignee	(B)	Residence (City and State or Country)
	State University New York		Binghamton, NY

The form also stated, "If an assignee is identified ... the document has been filed for recordation as set forth in 37 CFR 3.11." However, despite such a statement, an assignment to State University New York had not been recorded.

The application issued as Patent No. 7,826,629, on November 2, 2010. The patent included the following language:

Assignee: State University New York
Binghamton, NY (US)

The inventors of record are Ronald N. Miles and F. Levent Degertekin. Miles assigned his rights to the Research Foundation of State University of New York on November 15, 2010. The

assignment was recorded on November 24, 2010. Degertekin assigned his rights to the Georgia Tech Research Corporation on November 23, 2010. The assignment was recorded on November 24, 2010.

On November 24, 2010, Patentees filed a request for issuance of a certificate of correction replacing the prior quoted language from the patent with the following language:

> Assignee: The Research Foundation of State University of New York; and Georgia Tech Research Corporation

37 C.F.R. § 3.81(b) states,

> 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.

A decision dismissing the November 24, 2010 request was mailed March 25, 2011. The decision stated,

> The request does not state an assignment to The Research Foundation of State University of New York and an assignment to Georgia Tech Research Corporation were recorded prior to issuance of the patent....
>
> Although the request and draft certificate of correction identify the names of the two assignees, neither document identifies an address for either assignee.

A petition under 37 C.F.R. § 1.183 was filed May 25, 2011. The petition sought to replace the assignee information on the patent with the following language:

> Assignee: The Research Foundation of State of University of New York, P.O. Box 6000, Binghamton, New York 13902-6000; and
>
> Georgia Tech Research Corporation, 505 Tenth Street, NW, Atlanta, Georgia 30332-0415.

The Office mailed a decision dismissing the May 25, 2010 petition on June 14, 2011. The decision stated,

> Patentees seek issuance of a certificate of correction to replace State University of New York with The Research Foundation of State University of New York ("RF")[1] and Georgia Tech Research Corporation ("GA Tech").

[1] The Office notes the assignment recorded on November 24, 2010, does not include the word "The" as the first word in the assignee's name.

> The Office's authority to issue certificates of correction is set forth in 35 U.S.C. §§ 254 and 255....
>
> As indicated in both 35 U.S.C. §§ 254 and 255, the Office is allowed to issue certificates of correction to correct *mistakes*. A failure to list an entity as an assignee when issuing a patent is not a "mistake" if the entity is not an assignee when the patent is issued.
>
> As of the date the patent issued, Miles had not assigned his rights in the application to RF. Therefore, the absence of RF's name on the patent is not a mistake that can be corrected via issuance of a certificate of correction. As of the date the patent issued, Degertekin had not assigned his rights in the application to GA Tech. Therefore, the absence of GA Tech name on the patent is not a mistake that can be corrected via issuance of a certificate of correction....
>
> 37 C.F.R. § 1.183 states the Office may waive or suspend "any requirement of the regulations in this part which is not a requirement of the statutes." The requirement for a certificate of correction to correct a mistake is a statutory requirement. Therefore, the requirement cannot be waived.

The instant petition was filed July 14, 2011.

The instant petition argues Research Foundation of the State of New York ("RF-SUNY") and Georgia Tech Research Corporation ("GTRC") were assignees at the time the patent issued.

The petition seeks waiver of the requirement that an assignment to an assignee be recorded prior to issuance of a patent in order to have a certificate of correction issued naming the assignee.

DISCUSSION

The Petition Fails to Establish RF-SUNY was an Assignee at the Time the Patent Issued.

The instant petition appears to argue RF-SUNY was an assignee at the time the patent issued. Specifically, the petition appears to argue:

1. All of inventor Miles' rights were transferred to SUNY prior to issuance of the patent, and
2. All of SUNY's rights were transferred to RF-SUNY prior to issuance of the patent.

Miles executed an assignment on November 14, 2010. Petitioner recorded the assignment on November 24, 2010. The assignment states Miles is transferring "the entire right, title, and interest in and to ... [Application No.] 11/335,137" to RF-SUNY. Despite the recordation of the assignment, the petition argues Miles had no rights in the invention that could have been assigned as of November 14, 2010.

The petition argues Miles rights were automatically transferred to the State University of New York ("SUNY") "as a result of a New York State Law, 8 NYCRR 335.28(b)." The petition indicates the "law" states,

> All inventions made by faculty members, employees, students, and all others utilizing university facilities at any of the State-operated institutions of State University shall belong to State University.

The petition asserts New York state law is applicable when determining ownership of the patent and states university facilities were used when making the invention. A literal interpretation of the language quoted above would appear to indicate the invention belongs to SUNY.

The "law" cited in the petition appears to be a *regulation* promulgated by the State University of New York Board of Trustees. A review of the regulation indicates the regulation includes the following language:

> The inventor or inventors shall make application for patents thereon as directed by State University and shall assign such applications or any patents resulting therefrom to or as directed by State University.[2]

The regulation indicates an inventor "shall assign" his rights to SUNY. The requirement for an inventor to assign his rights would be superfluous and unnecessary if the regulation automatically transfers ownership to the university because the inventor would not have any rights that could be assigned.

In view of the prior discussion, the petition fails to clearly establish SUNY was an assignee on or before the date the patent issued.

The petition asserts a "preexisting agreement between SUNY and RF-SUNY automatically transfer[red] ownership to RF-SUNY." The petition does not include a copy of the cited preexisting agreement automatically transferring ownership of the invention of the invention to RF-SUNY.

The petition asserts a letter dated October 20, 2009, to Joshua Toas from Nicholas Rostow, "act[ed] as an assignment of patent rights from SUNY to RF-SUNY." Large portions of the letter have been redacted. The un-redacted portion states, "[SUNY] ... respectfully requests [RF-SUNY] own, manage, administer, transfer, and promote the commercialization of all intellectual property made using SUNY facilities." The petition fails to prove the letter was an assignment for three main reasons:

1. A request for a party to own a piece of property is not necessarily the equivalent of an actual transfer of all ownership rights to the party;
2. The record fails to prove Nicholas Rostow had the authority to transfer ownership of all rights to intellectual property made using SUNY facilities to RF-SUNY, and

[2] 8 N.Y. COMP. CODES R. REGS. 335.29(b).

3. The petition fails to prove the redacted portions of the letter are not relevant when interpreting the un-redacted portion of the letter.

In view of the prior discussion, the record fails to prove RF-SUNY was an assignee at the time the patent issued.

The Petition Fails to Establish GTRC was an Assignee at the Time the Patent Issued.

The petition asserts GTRC owns the patent on the following facts:

1. The Georgia Institute of Technology Faculty Handbook ("Handbook") states the university's intellectual property has been granted, by contract, to GTRC; and
2. The Handbook states, "All full or part-time faculty and staff shall, as a condition of employment, execute an Assignment of Rights Form."

The petition does not include a copy of an Assignment of Rights Form executed by Degertekin. The petition does not prove Degertekin used any Georgia Institute of Technology resources when making the invention.

The petition does not cite any case in any state where a court has determined language in a university handbook similar to the language above is sufficient to constitute an automatic assignment of the rights in all inventions made by the university's faculty members.

In view of the prior discussion, the record fails to establish GTRC was an assignee at the time the patent issued.

The Office notes arguments in the petition concerning SUNY's ownership rights appear inconsistent with arguments GTRC was an assignee at the time the patent issued. New York university facilities were used when making the invention. Therefore, *if* the New York Board regulation automatically transfers ownership rights to all inventions made using the state's university facilities to SUNY, then GTRC cannot be an assignee since neither SUNY nor RF-SUNY transferred any ownership rights to GTRC prior to issuance of the patent.

The Petition Fails to Prove the Office has the Authority to Grant the Requested Relief.

As indicated in both 35 U.S.C. §§ 254 and 255, the Office is allowed to issue certificates of correction to correct *mistakes*. In other words, the requirement that a certificate of correction correct a mistake is a statutory requirement.

The record fails to establish RF-SUNY and GTRC were assignees at the time the patent issued. A failure to list an entity as an assignee when issuing a patent is not a "mistake" if the entity is not an assignee when the patent is issued. Therefore, the Office lacks the authority to issue a certificate of correction identifying RF-SUNY and GTRC as the inventors.

The Petition Fails to Demonstrate the Existence of an Extraordinary Situation Where Justice Requires Waiver of a Regulation.

Even if the petition established RF-SUNY and GTRC were assignees at the time the patent issued, the requested relief would not be granted.

37 C.F.R. § 1.183 states,

> In an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Director or the Director's designee, sua sponte, or on petition of the interested party, subject to such other requirements as may be imposed.

The Office does not consider a situation arising from a party's failure to exercise reasonable due care and diligence to be an extraordinary situation where the interests of justice require the granting of relief.[3]

The application was filed January 19, 2006. The application issued as a patent on November 2, 2010, more than four years and nine months after the filing date. Assignments to RF-SUNY and GTRC were not recorded during the pendency of the application. The petition does not allege RF-SUNY or GTRC attempted to obtain and record an assignment on any date prior to issuance of the petition.

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[3] *See Nitto Chemical Industry. Co., Ltd. v. Comer*, 39 U.S.P.Q. (BNA) 2d 1778, 1782 (D.D.C. 1994) (Commissioner's refusal to waive requirements of 37 C.F.R. § 1.10 in order to grant priority filing date to patent application not arbitrary and capricious, because failure to comply with the requirements of 37 C.F.R. § 1.10 is an "avoidable" oversight that could have been prevented by the exercise of ordinary care or diligence, and thus not an extraordinary situation under 37 C.F.R. § 1.183); *Honigsbaum v. Lehman*, 903 F. Supp. 8, 37 U.S.P.Q. (BNA) 2d 1799 (D.D.C. 1995) (Commissioner did not abuse his discretion in refusing to waive requirements of 37 C.F.R. § 1.10(c) in order to grant filing date to patent application, where applicant failed to produce Express Mail customer receipt or any other evidence that application was actually deposited with USPS as Express Mail), *aff'd without opinion*, 95 F.3d 1166 (Fed. Cir.1996); *Vincent v. Mossinghoff*, 230 U.S.P.Q. (BNA) 621 (D.D.C. 1985) (Misunderstanding of 37 C.F.R. § 1.8 not unavoidable delay in responding to Office Action); *In re Merck & Co., Inc.*, 24 U.S.P.Q. (BNA) 2d 1317, 1318 (Comm'r Pats. 1992) ("Inadvertent errors and omissions that could have been prevented by the exercise of ordinary care are not extraordinary situations, as contemplated by the Trademark Rules" (citations omitted)); *Gustafson v. Strange*, 227 U.S.P.Q. (BNA) 174 (Comm'r Pats. 1985) (Counsel's unawareness of 37 C.F.R. § 1.8 not extraordinary situation warranting waiver of a rule); *In re Chicago Historical Antique Automobile Museum, Inc.*, 197 U.S.P.Q. (BNA) 289 (Comm'r Pats. 1978) (Since certificate of mailing procedure under 37 C.F.R. § 1.8 was available to petitioner, lateness due to mail delay not deemed to be extraordinary situation); and *In re Montgomery*, 2010 Commr. Pat. LEXIS 30, *5 (June 23, 2010) ("Circumstances resulting from petitioner's, or petitioner's counsel's, failure to exercise due care, or lack of knowledge of, or failure to properly apply, the patent statutes or rules of practice are not ... extraordinary circumstances where the interests of justice require the granting of relief..") (*citing In re Tetrafluour Inc.*, 17 U.S.P.Q.2d (BNA) 1160, 1162 (Comm'r Pats. 1990); *In re Bird & Son, Inc.*, 195 U.SP.Q (BNA) 586, 588 (Comm'r Pats. 1977)); *In re Merck & Co., Inc.*, 24 U.S.P.Q.2d (BNA) 1317, 1318 (Comm'r Pats. 1992) ("Inadvertent errors and omissions that could have been prevented by the exercise of ordinary care are not extraordinary situations, as contemplated by the Trademark Rules") (citations omitted); and *In re Reissue Application of Reuser et al.*, 2005 Commr. Pat. LEXIS 22, *29 (Comm'r Pats. 2005) ("Circumstances resulting from petitioner's failure to exercise due care ... are not ... extraordinary circumstances where the interests of justice require the granting of relief.") (citations omitted).

The May 25, 2011 petition states the "failure to record the assignment ... [was the] result of an administrative oversight of applicant's attorney's office." However, none of the petitions have included evidence demonstrating the "oversight" occurred despite the exercise of reasonable due care and diligence by the attorney's office. Therefore, the record fails to support a conclusion the instant situation is an extraordinary situation where justice requires waiver of a regulation.

CONCLUSION

The petition under 37 C.F.R. § 1.183 is dismissed and the requested certificate of correction will not be issued.

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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OFFICE OF PETITIONS

In re Patent No. 8,005,695	: DECISION ON
De Marcken, et al.	: REQUEST FOR RECONSIDERATION
Application No. 11/335,169	: of PATENT TERM ADJUSTMENT
Issue Date: August 23, 2011	:
Filed: January 18, 2006	:
Attorney Docket No. 16113-4075001	:

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(d)", filed October 21, 2011, requesting that the patent term adjustment indicated on the above-identified patent be corrected from one thousand one hundred thirty-four (1134) days to one thousand two hundred sixty-four (1264) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **DISMISSED.**

On August 23, 2011, the instant application matured into U.S. Patent No. 8,005,695 with a patent term adjustment of one thousand one hundred thirty-four (1134) days. The Office determined a patent term adjustment of 1134 days based upon 913 days of "A" delay plus 407 days of "B" delay, reduced by 96 days of overlap between "A" and "B" delay and 90 days of Applicant delay.

Patentee argues that even though he filed an RCE on March 2, 2010, he should be awarded 37 CFR 1.703(b) "over three year" delay from the time the Office mailed a Notice of Allowance on April 18, 2011 until the issue date of the patent. In other words, Patentee argue that no continued examination took place during this time period, and the Office should be accorded 128 additional days of delay pursuant to 37 CFR 1.703(b). Patentee's argument has been considered, but is not persuasive.

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 407 days based on the application having been filed under 35 U.S.C. 111(a) on January 18, 2006, and a request for continued examination under 132(b) having been filed on March 2, 2010. In other words, the 128 day period beginning on the date of mailing of the notice of allowance on April 18, 2011 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

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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.

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), 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.

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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.

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 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 March 2, 2010, and the patent issued by virtue of that request on August 23, 2011. Pursuant to 35 U.S.C. 154(b)(1)(B)(i), the period beginning on March 2, 2010 and ending on August 23, 2011 is not included in calculating Office delay.

Lastly, Patentees also argue that they should not have been accorded Applicant delay of ten (10) days under 37 CFR 1.704(b) for filing a late response to a November 20, 2009 Office action on March 2, 2010. Rather, Patentees assert that Applicant delay should have only been eight (8) days, as a reply filed on February 22, 2010 would have been timely under 37 CFR 1.7(a). Patentees' argument should have been raised pursuant to an application for patent term

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[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.

adjustment under 37 CFR 1.705(b), prior to the issuance of the application, and as such, is not timely raised under 37 CFR 1.705(d).

CONCLUSION

In view thereof, it is concluded that the patent term adjustment of 1134 days indicated on the patent is correct.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3207.

Cliff Congo
Petitions Attorney
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In re Patent No. 8,005,695	: DECISION ON
De Marcken, et al.	: REQUEST FOR RECONSIDERATION
Application No. 11/335,169	: of PATENT TERM ADJUSTMENT
Issue Date: August 23, 2011	:
Filed: January 18, 2006	:
Attorney Docket No. 16113-4075001	:

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(d)", filed January 4, 2012, requesting that the patent term adjustment indicated on the above-identified patent be corrected from one thousand one hundred thirty-four (1134) days to one thousand two hundred sixty-four (1264) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **DENIED**.

On August 23, 2011, the instant application matured into U.S. Patent No. 8,005,695 with a patent term adjustment of one thousand one hundred thirty-four (1134) days. The Office determined a patent term adjustment of 1134 days based upon 913 days of "A" delay plus 407 days of "B" delay, reduced by 96 days of overlap between "A" and "B" delay and 90 days of Applicant delay.

Patentee argues that even though he filed an RCE on March 2, 2010, he should be awarded 37 CFR 1.703(b) "over three year" delay from the time the Office mailed a Notice of Allowance on April 18, 2011 until the issue date of the patent. In other words, Patentee argue that no continued examination took place during this time period, and the Office should be accorded 128 additional days of delay pursuant to 37 CFR 1.703(b). Patentee's argument has been considered, but is not persuasive.

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 407 days based on the application having been filed under 35 U.S.C. 111(a) on January 18, 2006, and a request for continued examination under 132(b) having been filed on March 2, 2010. In other

words, the 128 day period beginning on the date of mailing of the notice of allowance on April 18, 2011 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, 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.

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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.

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), 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 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

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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.

1.53(d). Thus, clause (i) is different from clause (ii) in that clause (i) refers to an examination process whereas clause (ii) refers to time consumed by proceedings (interferences, secrecy orders and appeals) in an application.

By nature, the time used in the course of the examination process continues to issuance of the patent. The examination process involves examining the application to ascertain whether it appears that the applicant is entitled to a patent under the law. See 35 U.S.C. 131 ("[t]he Director shall cause an examination to be made of the application and the alleged new invention; and if on such examination it appears that the applicant is entitled to a patent under the law, the Director shall issue a patent therefor"). If on examination it appears that the applicant is entitled to a patent, the USPTO issues a notice of allowance. See 35 U.S.C. 151 ("[i]f it appears that applicant is entitled to a patent under the law, a written notice of allowance of the application shall be given or mailed to the applicant"). If on examination it appears that the applicant is not entitled to a patent, the USPTO issues a notice (an Office action) stating the applicable rejection, objection, or other requirement, with the reasons therefor. See 35 U.S.C. 132 ("[w]henever, on examination, any claim for a patent is rejected, or any objection or requirement made, the Director shall notify the applicant thereof, stating the reasons for such rejection, or objection or requirement, together with such information and references as may be useful in judging of the propriety of continuing the prosecution of his application"). Neither the issuance of a notice of allowance nor the issuance of an Office action terminates the examination process. If after the issuance of an Office action under 35 U.S.C. 132 it subsequently appears that the applicant is entitled to a patent (e.g., in response to an argument or amendment by the applicant), the USPTO will issue a notice of allowance. Conversely, if after the issuance of a notice of allowance under 35 U.S.C. 151 it subsequently appears that the applicant is not entitled to a patent (e.g., in response to information provided by the applicant or uncovered by the USPTO), the USPTO will withdraw the application from issuance and issue an Office action under 35 U.S.C. 132 stating the applicable rejection, objection, or other requirement, with the reasons therefor.

As held in Blacklight Power, the USPTO's responsibility to issue a patent containing only patentable claims does not end with the issuance of a notice of allowance under 35 U.S.C. 151. See BlackLight Power, Inc. v. Rogan, 295 F.3d 1269, 1273 (Fed. Cir. 2002). Rather, if there is any substantial, reasonable ground within the knowledge or cognizance of the Director as to why an application should not issue, it is the USPTO's duty to refuse to issue the patent even if a notice of allowance has previously been issued for the application. See In re Drawbaugh, 9 App. D.C. 219, 240 (D.C. Cir 1896).

Moreover, the applicant continues to be engaged in the examination process after the mailing of the notice of allowance. 37 CFR 1.56 makes clear that the applicant has a duty to disclose information material to patentability as long as the application is pending before the USPTO (i.e., until a patent is granted or the application is abandoned). See 37 CFR 1.56(a) ("[t]he duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned"). 37 CFR 1.97 and 1.98 provide for the consideration of information submitted by the applicant after a notice of allowance has been mailed. See 37 CFR 1.97(d). In addition, 37 CFR 1.312 provides for the

amendment of an application after a Notice of Allowance has been mailed. In fact, the request for continued 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 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 March 2, 2010, and the patent issued by virtue of that request on August 23, 2011. Pursuant to 35 U.S.C. 154(b)(1)(B)(i), the period beginning on March 2, 2010 and ending on August 23, 2011 is not included in calculating Office delay.

Lastly, Patentees also argue that they should not have been accorded Applicant delay of ten (10) days under 37 CFR 1.704(b) for filing a late response to a November 20, 2009 Office action on March 2, 2010. Rather, Patentees assert that Applicant delay should have only been eight (8) days, as a reply filed on February 22, 2010 would have been timely under 37 CFR 1.7(a). Patentees' argument should have been raised pursuant to an application for patent term adjustment under 37 CFR 1.705(b), prior to the issuance of the application, and as such, is not timely raised under 37 CFR 1.705(d).

CONCLUSION

In view thereof, it is concluded that the patent term adjustment of 1134 days indicated on the patent is correct.

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[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.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Cliff Congo at (571) 272-3207.

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