UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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MAILED
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OFFICE OF PETITIONS

RSW IP Law
IBM CORPORATION
3039 CORNWALLIS RD.
DEPT. T81 / B503, PO BOX 12195
RESEARCH TRIANGLE PARK NC 27709

In re Application of	:	
AGAPI et al.	:	
Application No. 11/391,825	:	ON PETITION
Filed: 03/29/2006	:	
Attorney Docket No. BOC920060024US1	:	

This is a decision on the petition for revival of an application for patent abandoned unavoidably under 37 CFR 1.137(a) filed on August 19, 2011.

On February 28, 2011, the Office mailed a Notice of Allowance and Fee(s) Due, which set a three-month statutory period from the mail date of the Notice to pay the issue fee and publication to avoid abandonment of the application. On April 18, 2011, the Office mailed a Supplemental Notice of Allowability accompanied by an Examiner's Amendment. The Supplemental Notice of Allowability did not set any time period for reply as no reply to the Supplemental Notice of Allowability was required. On June 3, 2011, applicants submitted an Amendment under 37 CFR 1.312, which was entered by the Examiner on June 15, 2011. On June 20, 2011, the Office mailed a Notice of Allowance indicating that the application had become abandoned for failure to pay the issue fee and publication fee in a timely manner. On August 19, 2011, applicants submitted the present petition to revive under 37 CFR 1.137(a) and a petition fee.

In the present petition, applicants assert that they relied on the oral statements of the Examiner that the Supplemental Notice of Allowability mailed April 18, 2011, replaced the Notice of Allowance of February 28, 2011, and reset the response date. Specifically, applicants explain:

> In this case, the internal documents submitted by the Examiner, did not reset or change the time, even though this was communicated to us - the time would have been changed had the Examiner made internal (to the USPTO) changes in the system, which was not done; Applicants assume this was an oversight. As we do not have access to the internal (to the

> USPTO) records, it would not have been possible for us to know that this status was not changed.
>
> Additionally, the supplemental Allowance we received stated that we had additional time to respond. The director explained to us that this statement was not procedurally true, since no check boxes were marked under this section. Hence, despite this having been stated in the last allowance we received and despite the Examiners assurance of the times for responding being the latter (received by phone responsive to our query), the USPTO calculated the due date from the first conveyed allowance (and not the second).

Petition, 08/19/11, p. 3.

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by:

> (1) The reply required to the outstanding Office action or notice, unless previously filed.
>
> (2) The petition fee 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 this paragraph was unavoidable; and
>
> (4) Any terminal disclaimer (and fee set forth in § 1.20(d)) required pursuant to 37 CFR 1.137(d).

This petition lacks item (3) above.

The Director may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Director to be "unavoidable". 35 U.S.C. 133.

> Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:
>
> > The word 'unavoidable'. . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.
>
> In re Mattullath , 38 App. D.C. 497, 514-15 (1912) (quoting Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 667-68

> (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).

MPEP 711.03(c)(II)(C)(2).

Pursuant to 37 CFR 1.135:

> (a) If an applicant of a patent application fails to reply within the time period provided under § 1.134 and § 1.136, the application will become abandoned unless an Office action indicates otherwise.
>
> (b) Prosecution of an application to save it from abandonment pursuant to paragraph (a) of this section must include such complete and proper reply as the condition of the application may require...

In this instance, the Office mailed a Notice of Allowance and Fee(s) Due on February 28, 2011, advising applicants that the issue fee and publication fee must be paid within three months from the mail date of the Notice of Allowance or the application shall be regarded as abandoned. The Notice of Allowance notified applicants that the due date for payment the issue fee and publication fee was May 31, 2011. In contrast, the Supplemental Notice of Allowability mailed April 18, 2011, informed applicants of the allowability of claims 1-5, 7 and 9-20, and included an Examiner's Amendment. The Supplemental Notice of Allowability did not indicate that the period for response to the Notice of Allowance of February 28, 2011 was tolled, nor did it set a new time period to pay the issue fee and publication fee. Therefore, the three-month statutory time period to pay the issue fee and publication fee to avoid abandonment continued to run from the mail date of the Notice of Allowance mailed February 28, 2011. Applicants asserted that the Supplemental Notice of Allowability stated that they had additional time to reply. However, a careful reading of the Supplemental Notice of Allowability reveals that an applicant has three months from the mailing date of the Notice "to file a reply complying with the requirements noted below" – 4. Submission of a substitute oath or declaration, 5. Submission of corrected drawings or 6. Submission of deposit of and/or information about the deposit of biological material. None of these requirements were checked nor was the payment of the issue fee and publication fee one of the requirements listed for which the time period for reply applied.

The record reveals that applicants did not pay the issue fee and publication fee within the period for reply set in the Notice of Allowance of February 28, 2011, in accordance with 37 CFR 1.135. Consequently, the application became abandoned by operation of statute for failure to respond timely to the Notice of Allowance of February 28, 2011. The Office reminds applicants that it was their responsibility to submit a timely and proper respond to the Notice of Allowance to save the application from abandonment. While it is unfortunate that applicants relied on the oral statements of Examiner and mistakenly believed that the Supplemental Notice of Allowability provided them with additional

time to respond, these circumstances do not support a showing of unavoidable delay. Applicants are reminded that all business with the USPTO should be transacted in writing. 37 CFR 1.2. The action of the USPTO will be based exclusively on the written record in the Office and no attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt. Id. Moreover, "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: (A) the applicant's reliance upon oral advice from USPTO employees; or (B) the USPTO'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)." MPEP 711.03(c)(II)(C)(2).

The showing of record is that the abandonment resulted from applicants' failure to respond in a timely manner to the Notice of Allowance filed February 28, 2011, rather than an error on the part of the USPTO. Accordingly, applicants have not provided a sufficient 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.

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

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

While the showing of record is not sufficient to establish to the satisfaction of the Director that the delay was unavoidable, applicants are not precluded from seeking relief by filing a petition under 37 CFR 1.137(b) on the basis of unintentional delay. 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 as set forth in 1.17(m)[1];

(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; and

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

The Office finance records indicate that applicants paid a $1620.00 petition fee on August 19, 2011, for the filing of the present petition. The large entity fee for a petition under 37 CFR 1.137(a) in effect on August 19, 2011, was $540.00. Therefore, applicants overpaid by $1080.00. The Office will refund the overpayment of $1080.00 in due course.

[1] Effective September 26, 2011, the fee for filing a petition under 37 CFR 1.137(b) as set forth in 37 CFR 1.17(m) is $1,860.00.

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 electronically via EFS-Web.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Conferees: Anthony Knight, Director
Christopher Bottorff, Petitions Examiner

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Paper No.

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

MAILED
NOV 08 2011
OFFICE OF PETITIONS

In re Application of	:	DECISION ON APPLICATION
Lance Flake	:	FOR
Application No. 11/391,862	:	PATENT TERM ADJUSTMENT
Filed: March 29, 2006	:	
Attorney Docket No. **17369US01**	:	

This is a decision on the APPLICATION FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 35 U.S.C. 154(b) ACCOMPANYING THE NOTICE OF ALLOWANCE filed October 19, 2011.

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

On July 21, 2011, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 572 days. The instant application for patent term adjustment was timely filed[1] on or before payment of the issue fee. Applicant contends that 90 days of patent term adjustment should be entered for a period of successful appellate review beginning on July 28, 2010, the date of filing of a notice of appeal, and ending on October 25, 2010, the date of mailing of a non-final Office action.

Applicant's argument has been considered, but not presently found persuasive. The time period from the filing of a notice of appeal to an action under 35 U.S.C. 132 is not a period of

[1] PALM records indicate that the issue fee was paid on October 19, 2011.

Office delay under the Office's current interpretation of the statute.

However, as acknowledged by applicant, the Office issued a Notice of proposed rulemaking entitled *Revision of Patent Term Extension and Adjustment Provisions Relating to Appellate Review and Information Disclosure Statements*, 76 FR 18990 (April 6, 2011). To the extent that the final rule on *Revision of Patent Term Extension and Adjustment Provisions Relating to Appellate Review* revises the interpretation of appellate review applied in this decision, Patentee is given **one (1) month or thirty (30) days**, whichever is longer, from the date of the final rule to file a request for reconsideration. No extensions of time will be given under 37 CFR 1.136(a).

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

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

Nancy Johnson

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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WITHROW & TERRANOVA, P.L.L.C.
100 REGENCY FOREST DRIVE, SUITE 160
CARY, NC 27518

MAILED
OCT 08 2010
OFFICE OF PETITIONS

In re Application of	:	
Nadim KHLAT, et *al.*	:	
Application No. 11/392,053	:	DECISION GRANTING PETITION
Filed: March 29, 2006	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **2867-401**	:	

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on August 23, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2614 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/19//10

TO SPE OF : ART UNIT 3714 (3700)

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/392,059 Patent No.: 7,708,635

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Ernest C. White, LPE
Randolph Sq. Ste 9D62A
703-756-1590

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

SPE /David L. Lewis/ SPE 3714 **ART UNIT** 3718

OK TO ENTER: /A.H./

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Walker, et al.
Patent No.:	7,708,635 B2
Conf. No.:	6616
Issued:	May 4, 2010
Title:	METHODS AND SYSTEMS FOR DETERMINING AND SELLING OUTCOMES FOR SLOT MACHINE GAMES TO BE VIEWED REMOTELY
Docket No.:	3718582-00207

REQUEST FOR CERTIFICATE OF CORRECTION
PURSUANT TO 37 CFR §1.323

Certificate of Correction Branch
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

It is respectfully requested that the above-referenced patent be amended as follows:

IN THE CLAIMS:

In Claim 7, column 114, line 6, after "processor;" insert --and--.

In Claim 8, column 114, line 33, replace "apparatus" with --gaming system--.

In Claim 9, column 114, line 53, replace "Apparatus" with --The gaming system--.

In Claim 10, column 114, line 61, replace "apparatus" with --gaming system--.

In Claim 11, column 114, line 65, replace "apparatus" with --gaming system--.

In Claim 12, column 115, line 4, replace "apparatus" with --gaming system--.

REMARKS

Upon the careful review of recently issued U.S. Patent 7,708,635 B2, the above-listed mistakes were noted. Patentee prepared this request for correction to the claims in order to correct these mistakes. These mistakes are of a clerical nature and of minor character, and occurred in good faith. Thus, the correction of these mistakes does not constitute new matter and does not make necessary a reexamination of the patent. Further, the requested changes to the claims does not change the scope of Patentee's rights granted under this patent.

Patentee is hereby requesting the issuance of a Certificate of Correction pursuant to §1.323. A proposed Certificate of Correction is also submitted herewith.

Please charge Deposit Account No. 02-1818 the $100.00 fee and any additional fees due in connection with this request.

Patentee respectfully solicits the granting of the requested Certificate of Correction.

If there are any questions, please telephone the undersigned.

Respectfully submitted,

K&L Gates LLP

BY _____

Adam H. Masia
Reg. No. 35,602
Customer No. 29159

Dated: September 30, 2010

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

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,708,635 B2

APPLICATION NO.: 11/392,059

ISSUE DATE : May 4, 2010

INVENTOR(S) : Walker, et al.

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

IN THE CLAIMS:

In Claim 7, column 114, line 6, after "processor;" insert --and--.

In Claim 8, column 114, line 33, replace "apparatus" with --gaming system--.

In Claim 9, column 114, line 53, replace "Apparatus" with --The gaming system--.

In Claim 10, column 114, line 61, replace "apparatus" with --gaming system--.

In Claim 11, column 114, line 65, replace "apparatus" with --gaming system--.

In Claim 12, column 115, line 4, replace "apparatus" with --gaming system--.

MAILING ADDRESS OF SENDER (Please do not use customer number below):
Adam H. Masia, K&L Gates LLP, P.O. Box 1135, Chicago, Illinois 60690-1135

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:

DATE :

TO SPE OF : ART UNIT

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

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

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

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

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

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

Note your decision on the appropriated box.

☐ **Approved** All changes apply.

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

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

Comments:

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/6/10

TO SPE OF : ART UNIT 2892 (2800)

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/392102 Patent No.: 7,498,655

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Ernest C. White, LTE
Randolph Sq. Ste 9D62A
703-756-1590

Thank You For Your Assistance

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

Note your decision on the appropriate box.

xApproved — **All** changes apply.

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

☐ **Denied**

☐ State the reasons for denial below.

SPE /Thao X. Le/ **ART UNIT** 2892

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAILED
SEP 27 2011
OFFICE OF PETITIONS

COGNEX CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
1 VISION DRIVE
NATICK MA 01760-2077

In re Application of	:	
Wallack, et al.	:	
Application No. 11/392,115	:	ON PETITION
Filed: March 29, 2006	:	
Attorney Docket No. C05-009	:	

This is a decision on the petition to revive under 37 CFR 1.137(b), pursuant to 37 CFR 1.137(f), filed September 23, 2008.

The petition is **GRANTED**.

Petitioner states that the instant application is the subject of an international application filed on March 28, 2007. However, the US Patent and Trademark Office was unintentionally not notified of this filings within 45 days subsequent to the filing of the international application.

In view of the above, this application became abandoned pursuant to 35 USC 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 instant 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 USC 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

Receipt of the $1540 petition fee is acknowledged.

The application is being forwarded to Group Art Unit 2624 for consideration of the RCE filed September 12, 2011.

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

Cliff Congo
Petitions Attorney
Office of Petitions

Enc: Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing (1 page)

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
11/392,115	03/29/2006	Aaron Wallack	C05-009

CONFIRMATION NO. 7465

23459
COGNEX CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
1 VISION DRIVE
NATICK, MA 01760-2077

NONPUBLICATION RESCISSION LETTER

OC000000049951418

Date Mailed: 09/21/2011

Communication Regarding Rescission Of Nonpublication Request and/or Notice of Foreign Filing

Applicant's rescission of the previously-filed nonpublication request and/or notice of foreign filing is acknowledged. The paper has been reflected in the Patent and Trademark Office's (USPTO's) computer records so that the earliest possible projected publication date can be assigned.

The projected publication date is 12/29/2011.

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".

/ccongo/

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

YAHOO! INC. C/O GREENBERG TRAURIG, LLP
MET LIFE BUILDING
200 PARK AVENUE
NEW YORK NY 10166

MAILED
MAR 26 2012
OFFICE OF PETITIONS

In re Application of	:	
Neal Sample et al.	:	
Application No. 11/392,247	:	DECISION ON PETITION
Filed: March 29, 2006	:	
Attorney Docket No. 085804.014913	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 7, 2012, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before February 1, 2012, as required by the Notice of Allowance and Fee(s) Due, mailed November 1, 2011. Accordingly, the date of abandonment of this application is February 2, 2012. A Notice of Abandonment was mailed on February 13, 2012.

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) a proper statement of unintentional delay. Accordingly, the issue and publication fees are accepted as being unintentionally delayed.

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

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

/Kimberly A. Inabinet/

Kimberly A. Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

MAILED

NOV 05 2010

OFFICE OF PETITIONS

In re Application of :
Gajjala, et al. :
Application No. 11/392,303 :
Filed: March 28, 2006 :
Attorney Docket No. MSFT-5640/138333.2 :
For: RETAIL TRANSACTIONS INVOLVING DIGITAL CONTENT IN A DIGITAL RIGHTS MANAGEMENT (DRM) SYSTEM

ON PETITION

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

The petition is **granted**.

This application became abandoned for failure to timely reply to the Notice of Allowance and Fee(s) Due, mailed December 15, 2009, which set a three month period for reply. This application became abandoned on March 16, 2010. A Notice of Abandonment was mailed on March 31, 2010.

Applicants have submitted the issue fee, the publication fee, a RCE and required fee, and IDS in reply to the December 15, 2009 Notice of Allowance and Fee(s) Due, an acceptable statement of the unintentional nature of the delay in responding to the December 15, 2009 Notice of Allowance and Fee(s) Due, and the petition fee. Therefore, the petition is granted.

After the mailing of this decision the application will be forwarded to Technology Center AU 3621 for consideration of the RCE and amendment filed on April 7, 2010.

Telephone inquiries pertaining to this decision may 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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Zilka-Kotab, PC
P.O. BOX 721120
SAN JOSE CA 95172-1120

MAILED

MAR 24 2011

OFFICE OF PETITIONS

In re Application of :
Krishnapur Narasimhamurthy Venkatasubrahmanyam :
Application No. 11/392,311 : DECISION ON PETITION
Filed: March 29, 2006 : TO WITHDRAW
Attorney Docket No. NAI1P526/05.082.01 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 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 there was no forwarding correspondence address. The forwarding address should be that of that of: (1) the first named inventor; or (2) an assignee of the entire interest under 37 C.F.R 3.71. If an assignee has ownership in this application, then a current Statement under 37 CFR 3.73(b) or a copy of the actual assignment must be provided with a renewed request.

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

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

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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AT & T LEGAL DEPARTMENT - WT
PATENT DOCKETING
ROOM 2A-207, ONE AT& T WAY
BEDMINSTER NJ 07921

MAILED
MAY 19 2011
OFFICE OF PETITIONS

In re Application of :
Betta et al. :
Application No. 11/392,435 : DECISION ON PETITION
Filed: March 28, 2006 :
Attorney Docket No. ATT/2001-0006C :

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Office action under Ex parte Quayle, 1935 Dec. Comm'r Pat. 11 (1935), mailed June 18, 2009, which set a shortened statutory period for reply of two (2) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on August 19, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a terminal disclaimer, fee, and amendment (2) the petition fee of $1620.00, and (3) a statement of unintentional delay.

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

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

This application is being referred to Technology Center AU 2476 for appropriate action by the Examiner in the normal course of business on the reply received

Charlema Grant
Petitions Attorney
Office of Petitions

Cc: Kin Wah Tong
Wall & Tong, LLP
25 James Way
Eatontown, New Jersey 07724

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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Paper No.

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

MAILED
AUG 26 2010
OFFICE OF PETITIONS

In re Patent No. 7,685,109	:	DECISION ON REQUEST
Ransil et al.	:	FOR
Issue Date: 03/23/2010	:	RECONSIDERATION OF
Application No. 11/392,485	:	PATENT TERM ADJUSTMENT
Filed: 03/29/2006	:	and
Atty Docket No.	:	NOTICE OF INTENT TO ISSUE
5924-04700	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on May 20, 2010, which is being treated as a request for reconsideration under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted, by four hundred ninety-two (492) 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 three hundred eighty-four (384) 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 eighty-four (384) days is **GRANTED to the extent indicated herein.**

As to the "B" delay, the period is the period beginning on March 30, 2009, the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) and ending on March 23, 2010, the date the application issued as a patent, or 359 days. Any time consumed by appellate review, however, is not included in the calculation of 37 CFR 1.702(b). See 35 U.S.C. 154(b)(1)(B)(ii). On May 11, 2009, a notice of appeal was filed. On November 6, 2009, 180 days after the date the notice of appeal was filed, a notice of allowance was

mailed. Accordingly, the excluded period for appeal is 180 days, and the "B" delay period is 179 (351 - 180) days.

The patent term adjustment at the time of issuance of the patent is 384 (351 days of Office delay + 179 days of over three years delay - 146 days of applicant delay) days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136. See 37 CFR 1.323(a)(4).

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

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

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by three hundred eighty-four **(384)** days.

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,685,109 B1

DATED : **Mar. 23, 2010** **DRAFT**

INVENTOR(S) : Ransil 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 385 days.

Delete the phrase "by 385 days" and insert – by 384 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Date : September 3, 2010

Patent No. :7749036
Ser. No. :11/392573
Inventor(s) : Vhun-Soo KIM, et al
Issued :July 6, 2010
Title :METHOD AND APPARATUS FOR MANUFACTURING A FLAT FLUORESCENT
:LAMP

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
Electronic Filing	uspto.gov/ebc/index.html (must be registered as an e-filer to submit responses) Support 1-866-217-9197 571-272-4100

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

For Mary Diggs
Decisions & Certificates
of Correction Branch
(703) 756-1580 or (703) 756-1541

KED & ASSOCIATES, LLP
P.O. BOX 221200
Chantilly, VA 20153-1200

/arg

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

MAR 03 2011

OFFICE OF PETITIONS

KED & ASSOCIATES, LLP
P.O. Box 8638
Reston VA 20195

In re Patent No. 7,749,036	:	
Issue Date: July 6, 2010	:	
Application No. 11/392,573	:	DECISION ON PETITION
Filed: March 30, 2006	:	
Attorney Docket No. KIP-0001	:	

This is a decision on the Request Under 37 C.F.R. §3.81(b), filed November 4, 2010, which is being treated as a Petition Under 37 CFR §3.81(b), to identify the correct assignee's name. A completed Certificate of Correction Form (PTO/SB/44) was submitted with Petition.

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

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

"Mirae Corporation, Seoul (KR)"

to:

--Lumiette Inc., United States of America (USA)--

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

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

The requisite $100.00 fee (Fee Code 1811), as set forth under 37 CFR 1.20(a), has been submitted. However, the requisite $130.00 processing fee (Fee Code 1464), as set forth under 37 CFR 1.17(i), was accompanied deposit account authorization to charge any required fees. As such, the fee is being charged as authorized. Further, Office assignment records are consistent with the requested correction. Accordingly, since the Petition complies with the provisions of 37 CFR 3.81(b), it is appropriate for the Office to issue a Certificate of Correction in accordance with the content of the Form PTO/SB/44 submitted with Petition.

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.

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. 7,749,036.

Cheryl Gibson Baylor

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

cc: Ked & Associates, LLP
P.O. Box 221200
Chantilly, VA 20153-1200

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 2/18/2011

TO SPE OF : ART UNIT 3749 McAllister, Steven (Spe)

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/392594 Patent No.: 7793651

CofC mailroom date: 1/6/2011

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Certificates of Correction Branch
703-756-1571

Thank You For Your Assistance

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

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

Comments: Approved.

/Steven B. McAllister/ 3749

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

JOHN S. BEULICK (12729)
C/O ARMSTRONG TEASDALE LLP
7700 FORSYTH BOULEVARD
SUITE 1800
ST. LOUIS MO 63105

MAILED
SEP 14 2010
OFFICE OF PETITIONS

In re Application of	:	
Andrew Cero Davis	:	
Application No. 11/392,608	:	DECISION ON PETITION
Filed: March 30, 2006	:	
Attorney Docket No. 228284-3 (12729-890)	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 10, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, June 17, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on September 18, 2008. The Notice of Abandonment was mailed January 6, 2009.

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

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

This application is being referred to Technology Center AU 2612 for appropriate action by the Examiner in the normal course of business on the reply received.

Terri Johnson
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO, IL 60661

MAILED

AUG 1 1 2010

OFFICE OF PETITIONS

In re Application of
Amit Bagchi, et al.
Application No. 11/392,868
Filed: March 30, 2006
Attorney Docket No. 1875.7250001

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 27, 2009, to revive the above-identified application.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, September 8, 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 December 9, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1620, and (3) 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 2618 for appropriate action by the Examiner in the normal course of business on the reply received July 27, 2009.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

MAILED

FEB 22 2011

OFFICE OF PETITIONS

In re Application of	:	
Bagchi et al.	:	DECISION
Application No. 11/392,868	:	ON APPLICATION FOR
Filed: March 30, 2006	:	PATENT TERM ADJUSTMENT
Atty Docket No. 1875.7250001	:	
Title: DC CANCELLATION	:	
CIRCUIT	:	

This is in response to the "APPLICATION FOR RECONSIDERATION OF THE DETERMINATION OF PATENT TERM ADJUSTMENT UNDER 35 U.S.C. § 154(b) ACCOMPANYING THE NOTICE OF ALLOWANCE (37 CFR § 1.705)," filed January 18, 2011. Applicant submits that the correct patent term adjustment to be indicated on the patent is one thousand, two hundred and twenty-four (1224) days, not seven hundred and eighty-nine (789) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction solely on the basis that the Office will take in excess of three years to issue this patent.

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

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

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

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

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

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

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months

---

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

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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
3000 K STREET NW
SUITE 500
WASHINGTON DC 20007

MAILED
MAR 06 2012
OFFICE OF PETITIONS

In re Application of	:	
Ole Kaae Hansen	:	
Application No. 11/392,925	:	ON REQUEST FOR
Filed: March 30, 2006	:	RECONSIDERATION OF
Attorney Docket Number: 101094-0102	:	PATENT TERM ADJUSTMENT

This is a decision on the petition under 37 CFR 1.705(b), filed February 24, 2012. Applicant believes that the PTA should be accorded an additional two hundred thirty-eight (238) days. Applicants request this correction in part on the basis that the Office will take in excess of three years to issue this patent pursuant to 37 CFR 1.702(b).

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

However, Applicant also points out that he should have been assessed an additional forty-two (42) days of Applicant delay pursuant to 37 CFR 1.704(c)(7). Applicant filed an RCE, together with an Amendment on January 5, 2010. However, the Office mailed a Notice of Non-Compliant Amendment on January 14, 2010. Applicant filed a compliant Amendment on February 16, 2010. Accordingly, forty-two (42) days of Applicant delay should have been assessed pursuant to 37 CFR 1.704(c)(7).

In view thereof, the correct determination of PTA prior to issuance is **four hundred sixty-one (461) days** (624 (590+34) days of PTO delay, reduced by 121 (60+42+61) days of Applicant delay).

The $200.00 fee set forth in 37 CFR 1.18(e) has been charged to Deposit Account No. 19-0741, 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 the undersigned at (571) 272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Decision Date : April 8,2011

In re Application of :

Wayne Montoya

DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 11392974

Filed : 27-Mar-2006

Attorney Docket No : MP1741-US2

This is an electronic decision on the petition under 37 CFR 1.313(c)(2), filed April 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 3742 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	11392974
Filing Date	27-Mar-2006
First Named Inventor	Wayne Montoya
Art Unit	3742
Examiner Name	MARK PASCHALL
Attorney Docket Number	MP1741-US2
Title	SURFACE MOUNT MULTI-LAYER ELECTRICAL CIRCUIT PROTECTION DEVICE WITH ACTIVE ELEMENT BETWEEN PPTC LAYERS

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	/Marguerite E. Gerstner/
Name	Marguerite E. Gerstner
Registration Number	32695

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: 42P22846	Patent Number: 7,668,129
Filing Date (or 371(b) or (f) Date): 03-30-2006	Issue Date: 02-23-2010
First Named Inventor: Ayelet Alon	
Title: LEARNING MECHANISM TO CONFIGURE POWER SAVE PARAMETERS FOR AUTOMATIC POWER SAVE 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 /Stuart A. Whittington/	Date 45,215
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

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INTEL/BSTZ
BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

Mail Date: 09/14/2010

Applicant	: Ayelet Alon	: DECISION ON REQUEST FOR
Patent Number	: 7668129	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/393,084	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/30/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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JUL 18 2011

OFFICE OF PETITIONS

HONEYWELL INTERNATIONAL INC.
PATENT SERVICES
101 COLUMBIA ROAD
P O BOX 2245
MORRISTOWN NJ 07962-2245

In re Patent No. 7,603,212
Issued: October 13, 2009
Application No. 11/393,086
Filing or 371(c) Date: March 30, 2006
Dkt. No.: H0010434-5607

: DECISION ON APPLICATION FOR
: PATENT TERM ADJUSTMENT

This is a decision on the petition filed May 20, 2010, filed in response to the decision mailed April 21, 2010. Patentees herein 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 308 days.

Patentees dispute the period of time excluded from B delay for appellate review. Patentee's argument has been considered, but not found persuasive. The period consumed by appellate review, whether successful or not, is excluded from the calculation of B delay. See, 35 U.S.C. 154(b)(1)(B)(ii). An appeal to the Board of Patent Appeals and Interferences commences with the filing of a notice of appeal. See, 35 U.S.C. 134(a). Generally, an appeal to the Board of Patent Appeals and Interferences ends with either 1) a Board decision, 2) the examiner reopening prosecution and issuing another Office action, or 3) the applicant filing a request to withdraw the appeal and reopen prosecution (e.g. the filing of a request for continued examination). In this instance the period consumed by appellate review began on May 14, 2008, the date of filing of the notice of appeal, and ended on September 30, 2008, the mailing date of the non-final Office action. Thus, adjustment accorded for B delay will not be increased.

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

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

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

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

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

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : January 23, 2011

TO SPE OF : ART UNIT 1617

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/393101 , Patent No.: 8071120

CofC mailroom date: 1-10-12

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

Note: _____

_____

Magdalene Talley
Certificates of Correction Branch
571-272-0423 _____

Thank You For Your Assistance

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

[X] **Approved** — **All** changes apply.

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

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

Comments: _____

/Fereydoun Sajjadi/ _____ 1617
SPE **Art Unit**

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TKHR (Broadcom)
400 INTERSTATE NORTH PARKWAY
SE
SUITE 1500
ATLANTA GA 30339

MAILED
JAN 31 2012
OFFICE OF PETITIONS

In re Application of :
Rodgers et al. :
Application No. 11/393,121 :
Filed: March 30, 2006 :
Attorney Docket No. 16909US01 :
For: SYSTEM AND METHOD FOR :
DEMULTIPLEXING DIFFERENT STREAM :
TYPES IN A PROGRAMMABLE :
TRANSPORT DEMULTIPLEXER :

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 December 13, 2011. This request is properly treated under 37 CFR 1.705(b). Applicants request that the determination of patent term adjustment be corrected from four hundred eighty-one (481) days to six hundred six (606) days.

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

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

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

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

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

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

To the extent that applicant otherwise requests reconsideration of the patent term adjustment at the time of the mailing of the

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

notice of allowance, the application for patent term adjustment is **GRANTED** to the extent indicated herein.

On September 19, 2011, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 481 days. The instant application for patent term adjustment was timely filed on December 13, 2011.

Applicants dispute the 1 day reduction for the submission of the response on March 7, 2011. Applicants state that as intended by 35 U.S.C. §54(b)(2)(c)(ii), the three-month date should be calculated from March 7, 2011, instead of March 6, 2011 as March 6, 2011 falls on a weekend. As such the response submitted on June 7, 2011 should be calculated as 0 days, not 1 days. The 1 day reduction will be removed.

Applicants' delay as of the mailing of the Notice of Allowance total is 33 days.

Office delay as of the mailing of the Notice of Allowance total is 515 days.

In view thereof, the correct determination of PTA at the time of the mailing of the notice of allowance is four hundred eighty-two **(482)** 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

Charlema Grant
Attorney Advisor
Office of Petitions

Enclosure: Copy of REVISED PALM Screen

Best Available Copy

Patent Term Adjustments

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

Application Number*: 11393121 Search | Explanation of PTA Calculation | Explanation of PTE Calculation

PTA Calculations for Application: 11393121

Application Filing Date	03/30/2006	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	515
A Delays	515	PTO Manual Adjustment	1
B Delays	0	Applicant Delay (APPL)	34
C Delays	0	Total PTA (days)	482

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
103	01/29/2012		P028	Adjustment of PTA Calculation by PTO	1		0
86	09/19/2011		MN/=.	Mail Notice of Allowance			0
85	09/13/2011		OAR	Office Action Review			0
84	09/13/2011		OAR	Office Action Review			0
83	09/13/2011		N/=.	Notice of Allowance Data Verification Completed			0
82	09/13/2011		IREV	Issue Revision Completed			0
81	09/13/2011		DVER	Document Verification			0
80	09/12/2011		EX.R	Reasons for Allowance			0
79	09/12/2011		CNTA	Allowability Notice			0
75	08/25/2011		FWDX	Date Forwarded to Examiner			0
76	08/24/2011		C614	New or Additional Drawing Filed			0
74	08/24/2011		A.NE	Amendment after Final Rejection			0
73	05/25/2011		ELC_RVW	Electronic Review			0
72	05/25/2011		EML_NTF	Email Notification			0
71	05/25/2011		MCTFR	Mail Final Rejection (PTOL - 326)			0
70	05/21/2011		OAR	Office Action Review			0
69	05/20/2011		CTFR	Final Rejection			0
66	03/11/2011		FWDX	Date Forwarded to Examiner			0
65	03/07/2011	03/06/2011	A...	Response after Non-Final Action		1	64
64	12/06/2010	11/29/2010	MCTNF	Mail Non-Final Rejection	7		52
63	12/05/2010		CTNF	Non-Final Rejection			0
57	09/09/2010		MAPCR	Mail Appeals conf. Reopen Prosec.			0
58	09/08/2010		FWDX	Date Forwarded to Examiner			0
56	09/08/2010		APCR	Pre-Appeals Conference Decision - Reopen Prosecution			0
53	07/29/2010		AP.C	Request for Pre-Appeal Conference Filed			0
52	07/29/2010		N/AP	Notice of Appeal Filed			0
51	05/20/2010		MCTFR	Mail Final Rejection (PTOL - 326)			0
50	05/20/2010		CTFR	Final Rejection			0
46	03/26/2010		FWDX	Date Forwarded to Examiner			0
47	03/03/2010		FEE.	Fee Payment Recorded (fees filed separately e.g. not with original papers, etc).			0
45	03/03/2010		A...	Response after Non-Final Action			0
44	12/03/2009		MCTNF	Mail Non-Final Rejection			0
43	12/03/2009		CTNF	Non-Final Rejection			0
40	10/06/2009		DOCK	Case Docketed to Examiner in GAU			0
39	09/30/2009		FWDX	Date Forwarded to Examiner			0
37	09/30/2009		FWDX	Date Forwarded to Examiner			0
35	09/30/2009		ABN9	Disposal for a RCE / CPA / R129			0
38	09/21/2009		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE			0
36	09/21/2009	08/19/2009	RCEX	Request for Continued Examination (RCE)		33	32
34	09/21/2009		XT/G	Request for Extension of Time - Granted			0
33	09/21/2009		BRCE	Workflow - Request for RCE - Begin			0
32	05/19/2009	05/15/2009	MCTFR	Mail Final Rejection (PTOL - 326)	4		25
31	05/19/2009		CTFR	Final Rejection			0
26	03/04/2009		FWDX	Date Forwarded to Examiner			0
25	01/15/2009		A...	Response after Non-Final Action			0
24	10/15/2008	05/30/2007	MCTNF	Mail Non-Final Rejection	504		0.5
23	10/14/2008		CTNF	Non-Final Rejection			0
19	10/04/2008		DOCK	Case Docketed to Examiner in GAU			0
18	09/09/2008		DOCK	Case Docketed to Examiner in GAU			0
17	04/02/2008		DOCK	Case Docketed to Examiner in GAU			0
16	03/14/2008		TSSCOMP	IFW TSS Processing by Tech Center Complete			0
15	03/14/2008		DOCK	Case Docketed to Examiner in GAU			0
14	10/11/2007		PG-ISSUE	PG-Pub Issue Notification			0
13	04/20/2006		WROIPE	Application Return from OIPE			0

12	04/20/2006	ROIPE	Application Return TO OIPE	0
11	04/20/2006	WROIPE	Application Return from OIPE	0
10	04/20/2006	COMP	Application Is Now Complete	0
9	04/20/2006	ROIPE	Application Return TO OIPE	0
8	04/20/2006	WROIPE	Application Return from OIPE	0
7	04/20/2006	COMP	Application Is Now Complete	0
6	04/20/2006	ROIPE	Application Return TO OIPE	0
5	04/20/2006	OIPE	Application Dispatched from OIPE	0
4	04/20/2006	COMP	Application Is Now Complete	0
3	04/12/2006	L194	Cleared by OIPE CSR	0
2	04/07/2006	SCAN	IFW Scan & PACR Auto Security Review	0
1	03/30/2006	IEXX	Initial Exam Team nn	0
0.5	03/30/2006	EFILE	Filing date	0

Export to: Excel

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WOOD, HERRON & EVANS, L.L.P. (IBM)
2700 CAREW TOWER
441 VINE STREET
CINCINNATI OH 45202

MAILED
JAN 04 2011
OFFICE OF PETITIONS

In re Application of	:	
Cheng et al.	:	DECISION ON PETITION
Application Number: 11/393142	:	
Filing Date: 03/30/2006	:	
Attorney Docket Number:	:	
ROC920050417US1		

This is a decision on the petition filed on October 25, 2010, under 37 CFR 1.137(b) to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on September 29, 2010, for failure to timely submit the issue and publication fees in response to the Notice of Allowance and Fee(s) Due mailed on June 28, 2010, which set a three (3)-month statutory period for reply. Notice of Abandonment was mailed on October 13, 2010.

Receipt of the issue and publication fees is acknowledged.

The application is referred 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

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LEVISOHN, BERGER , LLP
11 BROADWAY , SUITE 615
NEW YORK, NY 10004

MAILED
SEP 13 2011
OFFICE OF PETITIONS

In re Application of
Yaffa Sheina Licari
Application No. 11/393,196
Filed: March 29, 2006
Attorney Docket No.: LIC/114US

ON PETITION

This is a decision in response to the petition, filed, August 29, 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 5, 2010, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on January 6, 2011. A Notice of Abandonment was mailed on April 13, 2011.

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

This application is being referred to Technology Center AU 3754 for appropriate action by the Examiner in the normal course of business on the reply received August 29, 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: ——

DATE : 2/15/2011

TO SPE OF : ART UNIT 1619

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/393246 Patent No.: 7815903 B2

CofC mailroom date: 2/10/2011

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

FOR IFW FILES: ?? Item 30

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: _____

/David Blanchard/ — **SPE**

1619 — **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: ——

DATE : 2/15/2011

TO SPE OF : ART UNIT 1619

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/393246 Patent No.: 7815903 B2

CofC mailroom date: 2/10/2011

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

FOR IFW FILES: ?? Item 30

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: _____

/David Blanchard/
SPE

1689
Art Unit

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VISTA IP LAW GROUP, LLP (GN RESOUND)
1885 LUNDY AVE. SUITE 108
SAN JOSE, CA 95131

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APR 04 2011

OFFICE OF PETITIONS

In re Application of	:
James Mitchell Kates	:
Application No. 11/393,360	: DECISION ON PETITION
Filed: March 29, 2006	: UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. GNR P815 US2	:

This is a decision on the petition under 37 CFR 1.78(a)(6), filed January 19, 2011, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of prior-filed provisional Application No. 60/666,088, set forth in the amendment filed concurrently with the instant petition.

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 Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant pending nonprovisional application was filed on March 29, 2006, within twelve months of the filing date of the prior-filed provisional application, Application No. 60/666.088, which was filed on March 29, 2005, 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. Petitioner's attention is directed to Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980), where the court drew a distinction between a permissible 35 U.S.C. § 120 statement and the impermissible introduction of new matter by way of incorporation by reference in a 35 U.S.C. § 120 statement. The court specifically stated:

> Section 120 merely provides a mechanism whereby an application becomes entitled to benefit of the filing date of an earlier application disclosing the same subject matter. Common subject matter must be disclosed, in both applications, either specifically or by an express incorporation-by-reference of prior disclosed subject matter. Nothing in section 120 itself operates to carry forward any disclosure from an earlier application. In re deSeversky, supra at 674, 177 USPQ at 146-147. Section 120 contains no magical disclosure-augmenting powers able to pierce new matter barriers. It cannot, therefore, "limit" the absolute and express prohibition against new matter contained in section 251.

In order for the incorporation by reference statement to be effective as a proper safeguard against the omission of a portion of a prior application, the incorporation by reference statement must be included in the specification-as-filed, or in an amendment specifically referred to in an oath or declaration executing the application. *See* In re deSeversky, *supra*. *Note also* MPEP 201.06(c).

Accordingly, before the petition under 37 CFR 1.78(a)(6) can be granted, a substitute amendment[1] deleting the incorporation by reference statement, along with a renewed petition under 37 CFR 1.78(a)(6), is required.

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

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer 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
By Internet:	EFS-Web

Any questions concerning this matter may be directed to Alicia Kelley at (571) 272-6059.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

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[1] *Note* 37 CFR 1.121

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VISTA IP LAW GROUP, LLP (GN RESOUND)
1885 LUNDY AVE. SUITE 108
SAN JOSE, CA 95131

MAILED

MAY 05 2011

OFFICE OF PETITIONS

In re Application of	:	
James Mitchell Kates	:	
Application No. 11/393,360	:	DECISION GRANTING PETITION
Filed: March 29, 2006	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. GNR P815 US2	:	

This is a decision on the renewed petition under 37 CFR 1.78(a)(6), filed April 15, 2011, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of prior-filed provisional Application No. 60/666,088, filed March 29, 2005, as set forth in the amendment filed concurrently with the instant petition.

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 Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant pending nonprovisional application was filed on March 29, 2006, within twelve months of the filing date of the prior-filed provisional application, Application No. 60/666.088, which was filed on March 29, 2005, 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.

The instant nonprovisional application was filed after November 29, 2000, and the claim for priority herein is submitted after expiration of the period specified in 37 CFR § 1.78(a)(5)(ii). *See* 35 U.S.C. § 119(e). Accordingly, having found that the instant petition satisfies the conditions of 37 CFR § 1.78(a)(6) for acceptance of an unintentionally delayed claim for priority under 35 U.S.C. § 119(e), the petition to accept an unintentionally delayed claim of benefit to the above-noted, prior-filed provisional application is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR § 1.78(a)(6) should not be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior-filed application. In order for the instant application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the 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 application, accompanies this decision on petition.

Any questions concerning this matter may be directed to Alicia Kelley-Collier at (571) 272-6059.

This matter is being referred to Technology Center Art Unit 2614 for appropriate action on the amendment submitted April 15, 2011, including consideration by the examiner of the claim under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(5) for the benefit of the prior-filed provisional application.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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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
11/393,360	03/29/2006	2614	1130	GNR P815 US2	6	1

CONFIRMATION NO. 5708

CORRECTED FILING RECEIPT

86107
Vista IP Law Group, LLP (GN Resound)
1885 Lundy Ave. Suite 108
San Jose, CA 95131

OC000000047549526

Date Mailed: 05/06/2011

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 Mitchell Kates, Niwot, CO;

Power of Attorney: The patent practitioners associated with Customer Number 86107

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/666,088 03/29/2005

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

If Required, Foreign Filing License Granted: 04/19/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/393,360**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

HEARING AID WITH ADAPTIVE COMPRESSOR TIME CONSTANTS

Preliminary Class

381

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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Patent No. : 7,564,541 B2
Ser. No. : 11/393,395
Inventor(s) : Tuschel
Issued : Jul. 21, 2009
Title : SYSTEM FOR OBTAINING IMAGES IN BRIGHT FIELD AND CROSSED POLARIZATION MODES AND CHEMICAL IMAGES IN RAMAN, LUMINESCENCE AND ABSORPTION MODES
Docket No. : CIM 124 US
Re: Request for Certificate of Correction

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

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

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

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

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

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

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

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

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

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

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

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

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MAILED
JUN 17 2011
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CHEMIMAGE CORPORATION
7301 PENN AVENUE
PITTSBURGH, PA 15208

In re Patent No. 7,564,541	:	
Issue Date: July 21, 2009	:	
Application No. 11/393,395	:	DECISION ON PETITION
Filed: March 30, 2006	:	
Attorney Docket No. CIM 124 US	:	

This is a decision on the petition, filed, April 20, 2011, which is being treated as a request under 37 CFR 3.81(b)[1] to add the assignee's name on the Fee(s) Transmittal form PTOL-85(b) by way of a certificate of correction in the patent.

The request is **GRANTED**.

Petitioner states that the correct assignee's name is ChemImage Corporation, petitioner further states that the assignee's name was not indicated on the Fee(s) Transmittal form PTOL-85(b) at the time of payment of the issue fee. Accordingly, petitioner requests that a certificate of correction be issued to reflect the correct assignee on the front page of the Letters Patent.

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

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

The certificate of correction (and fee) as required by 3.81(b) was submitted on December 8, 2010. Further, Office assignment records reflect that ChemImage Corporation was the assignee of record before issuance of the patent. Accordingly, as the request complies with the provisions of 37 CFR 3.81(b), it is appropriate for a certificate of correction to be processed.

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

Petitioner should note that the Certificate of Correction processing fee of $100 was previously submitted and therefore the duplicate fee submitted on April 20, 2011, will be refunded to petitioner's credit card account in due course.

Inquiries concerning this decision should be directed to Alicia Kelley-Collier at (571) 272-6059. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

This matter is being referred to the Certificates of Correction Branch for processing of a certificate of correction.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

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.
11/393,455	03/29/2006	William Paul Lambert	441544	8228

30955 7590 04/12/2012
LATHROP & GAGE LLP
4845 PEARL EAST CIRCLE
SUITE 201
BOULDER, CO 80301

EXAMINER
ROLLAND, ALEX A

ART UNIT	PAPER NUMBER
1712	

NOTIFICATION DATE	DELIVERY MODE
04/12/2012	ELECTRONIC

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

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

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

patent@lathropgage.com

UNITED STATES PATENT AND TRADEMARK OFFICE

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

April 12, 2012

LATHROP & GAGE LLP
4845 PEARL EAST CIRCLE
SUITE 201
BOULDER CO 80301

In re Application of	:	
William Paul Lambert et al.	:	**DECISION ON PETITION**
Application No. 11393455	:	
Filed: 3/29/2006	:	***ACCEPTANCE OF COLOR***
Attorney Docket No. 441544	:	***DRAWINGS***

This is a decision on the Petition to Accept Color Drawings under 37 C.F.R 1.84 (a) (2), received in the United States Patent and Trademark Office (USPTO) March 29, 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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAILED
APR 04 2011
OFFICE OF PETITIONS

Mentor Graphics Corporation
ATTN: Legal Department
Patent Group
8005 SW Boeckman Road
Wilsonville, OR 97070-7777

In re Application of Pikus et al. :
Application No. 11/393,457 : Decision on Petition
Filing Date: March 29, 2006 :
Attorney Docket No. 10217-CIP3 :

This is a decision on the petition filed under 37 CFR 1.181 on January 20, 2011, which requests the Office withdraw the holding of abandonment.

The petition is **dismissed**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are NOT permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181."

Facts

The Office mailed a non-final Office action on April 2, 2010. The Office action set a three-month shortened statutory period for reply.

The Office received a reply to the Office action on October 7, 2010. The reply included a certificate of mailing dated October 4, 2010, a request for a three-month extension of time, and authorization for the Office to charge the $1,110 fee to Deposit Account No. 50-4256.

The reply identified the application as Application No. 11/363,457. As a result, the reply was matched with the file for No. 11/363,457 instead of the file for the instant application..

The Office attempted to charge the $1,110 extension of time fee to Deposit Account No. 50-4256 on October 7, 2010. However, the fee could not be charged to the deposit account because the deposit account's balance was less than $1,110.

A Notice of Abandonment was mailed November 2, 2010. An Interview Summary form mailed with the Notice of Abandonment states, on October 26, 2010, "Cory Jones confirmed [to the examiner] that no response was sent to the Non-Final Office action of April 2, 2010."

The instant petition was filed January 20, 2011. The petition includes a copy of the reply and states the reply was timely filed as shown by the certificate of mailing dated October 4, 2007. The petition notes the reply incorrectly identified the application as Application No. 11/363,457 instead of Application No. 11/393,457.

Discussion

At the discretion of the Office, a paper listing an incorrect application number will usually be treated as if it was filed in the correct application if the following criteria are met:

(1) The papers contained sufficient information for the Office to recognize they included an incorrect application number.

(2) The papers contained sufficient information for the Office to determine the correct application number.

The Office has determined the criteria identified above have been satisfied, and the October 7, 2007 reply has been moved to the file for Application No. 11/393,457.

The reply was timely if it included payment for a three-month extension of time. Unfortunately, the reply did not include the required payment because the deposit account balance was less than $1,110 when the Office attempted to charge the fee to the account. Therefore, the reply was untimely and the application is abandoned. Since an extension of time was not obtained, the application became abandoned on July 3, 2010.

In view of the prior discussion, the holding of abandonment will not be withdrawn.

Petitioner may wish to consider filing a petition to revive based on unintentional abandonment under 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by the required reply (already submitted), the required petition fee ($1,620 for a large entity), and a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

A copy of a PDF "fillable" petition under 37 CFR 1.137(b) form can be found at: http://www.uspto.gov/web/forms/sb0064.pdf.

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

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

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

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

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

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

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES 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 08 2011
OFFICE OF PETITIONS

Mentor Graphics Corporation
ATTN: Legal Department
Patent Group
8005 SW Boeckman Road
Wilsonville, OR 97070-7777

In re Application of Pikus et al.	:	
Application No. 11/393,457	:	Decision on Petition
Filing Date: March 29, 2006	:	
Attorney Docket No. 10217-CIP3	:	

This is a decision on the petition under 37 CFR 1.137(b) filed April 20, 2011.

The petition is **granted**.

The Office mailed a non-final Office action on April 2, 2010, which set a three-month shortened statutory period for reply.

A reply to the Office action was filed October 7, 2010. The reply included a certificate of mailing dated October 4, 2010, a request for a three-month extension of time, and authorization for the Office to charge the $1,110 fee to Deposit Account No. 50-4256. When the Office attempted to charge the $1,110 extension of time fee to Deposit Account No. 50-4256 on October 7, 2010, the fee could not be charged because the deposit account's balance was less than $1,110.

A Notice of Abandonment was mailed November 2, 2010.

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,
(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) A terminal disclaimer and fee if the application was filed on or before June 8, 1995, or if the application is a design application.

The required reply was previously filed on October 7, 2010, in the form of an amendment, the petition is accompanied by the required $1,620 petition fee, and the petition includes the required statement of unintentional delay. Therefore, the petition is granted and the application is revived.

Technology Center Art Unit 2434 will be informed of the instant decision and the application, including the amendment filed October 7, 2010, will be further examined in due course.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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GREENLEE SULLIVAN P.C.
4875 PEARL EAST CIRCLE
SUITE 200
BOULDER, CO 80301

Mail Date: 08/04/2010

Applicant	: Thomas Bates	: DECISION ON REQUEST FOR
Patent Number	: 7667839	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/393,475	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/30/2006	: 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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P.O. Box 1450
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PHILIP S JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

MAILED
AUG 3 1 2010
OFFICE OF PETITIONS

In re Application of	:	
Allison, et al.	:	
Application No. 11/393,558	:	ON REQUEST FOR
Filed: March 30, 2006	:	RECONSIDERATION OF
Attorney Docket Number: PRD2443USNP	:	PATENT TERM ADJUSTMENT

This is a decision on the petition under 37 CFR 1.705(b), filed July 12, 2010. Applicants believe that they should be accorded an additional PTA of 367 days. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

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

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

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

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

In view thereof, the correct determination of PTA prior to issuance is **one hundred sixty-four (164) days** (256 days of PTO delay, reduced by 92 days of Applicant delay).

The $200.00 fee set forth in 37 CFR 1.18(e) has been charged to Deposit Account No. 10-0750, 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

[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

Paper No.: _____

DATE : August 26, 2010

TO SPE OF : ART UNIT 2112

SUBJECT : Request for Certificate of Correction for Appl. No.: 11393622 Patent No.: 7752521

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-C
Palm Location 7580

Certificates of Correction Branch
703-756-1573

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: _____

SCOTT BADERMAN
~~SUPERVISORY PATENT EXAMINER~~
SPE

2114
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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YOUNG & THOMPSON
209 Madison Street
Suite 500
Alexandria VA 22314

MAILED
MAR 13 2012
OFFICE OF PETITIONS

In re Application of

Fujii, et al. :

Application No. 11/393,692

: DECISION ON PETITION

Filed: March 31, 2006

:

Attorney Docket No. **8074-1145**

This is a decision on the petition under 37 CFR 1.181(a) to withdraw the holding of abandonment, filed February 6, 2012.

The petition under 37 CFR 1.181(a) to withdraw the holding of abandonment is **granted**.

This application was held abandoned on January 15, 2012, after it was believed that no further action was taken after a Decision on Appeal affirming the examiner that was issued on November 14, 2011.

The instant petition was filed on February 6, 2012, wherein petitioner states that the imposition of the holding of abandonment is improper because a response was timely filed on January 17, 2012.

A review of the application file record did reveal that a Request for Continued Examination, submission, and fee was filed on Tuesday, January 17, 2012. It is noted that period for reply ended Saturday, January 14, 2012, and that Monday, January 16, 2012 was a federal holiday. The response filed Tuesday, january1 7, 2012, was timely pursuant to 37 CFR 1.7(b). Based on the aforementioned, it appears that the application was improperly held abandoned a Request for Continued Examination, submission, and fee were filed January 17, 2012, within the period for reply. The holding of abandonment is withdrawn, accordingly.

The application file is being forwarded Technology Center GAU 2881 for further processing.

Further inquires regarding this decision may be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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

MAILED
JAN 27 2011
OFFICE OF PETITIONS

In re Patent No. 7,651,533
Issue Date: January 26, 2010
Application No. 11/393,694
Filed: March 31, 2006
Attorney Docket No. 05725.1570-00

DECISION ON PETITION

This is a decision on the Request For Certificate Of Correction, filed March 5, 2010, requesting correction on the Title Page of the subject patent to add the assignee's name and residence and correct the inventor's information. The request is being treated as a Petition Under 37 CFR §3.81(b). A completed Certificate of Correction Form 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 assignee's name and residence and correct the inventor's information on the previously submitted PTOL-85B and such error was a clerical error. Accordingly, petitioner requests that a Certificate of Correction (PTO/SB/44) be issued to add the assignee's name and residence and correct the inventor's information to the Title Page of the Letters Patent.

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

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

The requisite $100.00 fee (Fee Code 1811), as set forth under 37 CFR 1.20(a), has been submitted. However, the $130.00 processing fee (Fee Code 1464), as set forth under 37 CFR 1.17(i), was accompanied deposit account authorization to charge any required fees. As such, the fee has been charged as authorized. Further, Office assignment records are consistent with the requested correction. Accordingly, since the Petition complies with the provisions of 37 CFR 3.81(b), it is appropriate for the Office to issue a Certificate of Correction in accordance with the content of the Form submitted with Petition.

However, petitioner requests an additional correction to be made in Column 2, Items (74). This correction will be handled directly in the Certificate of Correction Branch.

Inquiries related this communication should be directed to 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. 7,651,533.

Cheryl Gibson-Baylor

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Date :February 11, 2011

Patent No. :7808875
Inventor(s) :Hideyuki Ninomiya
Issued :Oct. 5, 2010
Title :DATA RECORDING APPARATUS

Re: Request for Certificate of Correction

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

Review of the application file has revealed the omission of the Foreign Priority data on the printed patent as a result of applicant's failure to fully comply with 35 U.S.C. 119, in that conditional requirements were not met. Applicant's attention is directed to MPEP 201.14(a), 37 CFR 1.17(i).

In view of the forgoing, applicant's request in this matter is hereby denied.

Any telephone inquiry concerning this communication should be directed to Ms. A. Green at (703) 756-1541.

Mary Diggs, Supervisor
Decisions & Certificates
of Correction Branch
(703) 756-1580 or (703) 756- 1541

John R. Schaefer
Bacon & Thomas, PLLC
625 Slaters Lane, Fourth Floor
Alexandria, VA 22314-1176

/arg

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20120123

DATE : January 23, 2012

TO SPE OF : ART UNIT 2627

SUBJECT : Request for Certificate of Correction on Patent No.: 7808875

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:

/HOA T NGUYEN/
Supervisory Patent Examiner, Art Unit 2627

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

In re Patent No. 7,238,660
Issue Date: July 3rd, 2007
Appl. No: 11/393893
Filed: March 31, 2006
For: Correction of Inventorship

This is a decision on the petition filed March 11, 2011, to correct inventorship under 37 CFR 1.324.

The petition is **GRANTED**.

The patented filed is being forwarded to Certificate of Corrections Branch for issuance of a certificate naming only the actual inventor or inventors.

/Manjunath Rao /

Manjunath Rao
Supervisory Patent Examiner Art Unit 1656
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
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/393,893	03/31/2006	Craig A. Rosen	6832.0064-01	1500

22852 7590 04/08/2011
FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

EXAMINER
CARLSON, KAREN C

ART UNIT	PAPER NUMBER
1656	

MAIL DATE	DELIVERY MODE
04/08/2011	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 7,238,660
Issue Date: July 3rd, 2007
Appl. No: 11/393893
Filed: March 31, 2006
For: Correction of Inventorship

This is a decision on the petition filed March 11, 2011, to correct inventorship under 37 CFR 1.324.

The petition is **GRANTED**.

The patented filed is being forwarded to Certificate of Corrections Branch for issuance of a certificate naming only the actual inventor or inventors.

/Manjunath Rao /

Manjunath Rao
Supervisory Patent Examiner Art Unit 1656
Technology Center 1600

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

MAILED

JAN 30 2012

OFFICE OF PETITIONS

In re Application of
Morich, et al.
Application No. 11/393,927
Filed: March 29, 2006
Attorney Docket No. 34874-034 /
2006P00118US

: DECISION GRANTING PETITION

This is a decision on the petition, filed November 30, 2011, requesting that the above-identified application be accorded a filing date March 29, 2006. The petition is properly treated as a petition under 37 CFR 1.10(c).

Petitioner alleges that the application was deposited in Express Mail Service on March 29, 2006. In support, the petition is accompanied by a copy of Express Mail receipt No. EV738974473US (the same Express Mail number found on the original application papers located in the official file) showing a "date in" of March 29, 2006.

The Office considers the date the paper or fee is shown to have been deposited as "Express Mail" to be the "date-in" on the Express Mail label; MPEP 513. The evidence is convincing that the application was deposited as "Express Mail" with the U. S. Postal Service on March 29, 2006.

In view of the above, the petition is GRANTED.

This application is being referred to the Office of Data Management for further processing. The corrected filing receipt, indicating a corrected filing date to March 29, 2006, was issued December 15, 2011.

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

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 04-19-2011

TO SPE OF : ART UNIT 2821

SUBJECT : Request for Certificate of Correction for Appl. No: 11394088 Patent No: 7327088

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 (Co f C
Randolph Square – 9D10-

EvaJames

Should these drawings be enter?

571-272-3422

Thank You For Your Assistance

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Jacob Choi
Supervisory Patent Examiner
Technology Center 2800

SPE Jacob Y. Choi Art Unit 2821

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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MILES & STOCKBRIDGE PC
1751 PINNACLE DRIVE, SUITE 500
MCLEAN, VA 22102-3833

MAILED

SEP 29 2010

OFFICE OF PETITIONS

In re Application of
Seth Y. ABLORDEPPEY
Application No. 11/394,158
Filed: March 31, 2006
Attorney Docket No. **T3716-11219US01**

DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 24, 2010.

The request is **NOT APPROVED**.

The request to withdraw as attorney/agent of record and change of correspondence address is hereby not accepted. Petitioner has not complied with current USPTO requirements, set forth in 37 CFR 10.40 concerning Request for Withdrawal as Attorney and Change of Correspondence Address. Specifically, pursuant to 37 CFR 10.40, the Office will require the practitioner(s) to certify that he, she or they have:

Petitioner has not properly submitted a correspondence forwarding address. In this regard, the request directs all future correspondence be forwarded to an assignee. However, the request did not include a statement under 37 CFR 3.73(b).

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

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

The Office will also no longer change the correspondence address to that of a new practitioner unless the Request is accompanied by a power of attorney to a new practitioner (e.g., Form PTO/SB/82). All future communications from the Office will be

directed to the above-listed address until otherwise properly notified by the applicant or a proper change of correspondence address has been submitted.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272- 7253.

All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

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

ATTACHMENT: Statement Under 37 CFR 3.73(b)

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No.

MILES & STOCKBRIDGE PC
1751 PINNACLE DRIVE
SUITE 500
MCLEAN VA 22102-3833

MAILED

OCT 01 2010

OFFICE OF PETITIONS

In re Application of	:	
Seth Ablordeppey	:	DECISION ON PETITION
Application No. 11/394,158	:	
Filed: March 31, 2006	:	
Attorney Docket No. T3716-11219US01	:	

This is a decision on the RENEWED PETITION UNDER 37 CFR 1.137(a) filed August 2, 2010.

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

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

The above-identified application became abandoned for failure to file a reply to the restriction requirement sent May 27, 2008. A courtesy Notice of Abandonment was sent on January 12, 2009. By decision mailed July 23, 2010, the initial petition under 37 CFR 1.137(a) was dismissed on the basis that applicant did not meet their burden of establishing that the delay was "unavoidable."

On renewed petition, applicants continue to maintain that the delay in replying was unavoidable as the Office action was not mailed to the address set forth in a Request for Withdrawal as Attorney or Agent and Change of Correspondence Address, filed by Miles & Stockbridge on October 12, 2007. In effect, applicants dispute the Office's conclusion that the Withdrawal of Attorney *in its entirety* was only effective when approved rather than when received (MPEP 402.06), and accordingly, the Office's

conclusion that the address of record properly remained with Miles & Stockbridge, who should have forwarded any PTO correspondence regarding the application if they were no longer working on it.

Applicants' arguments have been considered but not found persuasive. It is well-established that a withdrawal of attorney is effective when approved not when received. This was stated on the form filed by applicants on October 12, 2007, and continues to be stated on the newer forms currently in use. The effectiveness of information set forth therein goes to every element of the form. Every element is effective when approved not when received. The document is not processed in part as suggested by applicants, such that the attorney may or may be withdrawn yet the correspondence address will be changed upon receipt to another attorney who is not of record in the application. The withdrawal of attorney and change of correspondence address are not totally separate and unrelated matters. Where the Office refuses withdrawal of an attorney upon review of the request, that attorney continues to be of record in this application and communications regarding the prosecution of the application continue to be directed to the attorney until such time as his power of attorney is effectively withdrawn. Under such circumstances, a change of address to another attorney would be inappropriate. Such a change is not made as a ministerial act. Such a change is attendant to a favorable decision on the request for withdrawal of attorney. In such circumstances, such as occurred here, it is appropriate for the correspondence address to remain unchanged until such time as the attorney is properly withdrawn.

In view thereof, the petition must be dismissed.

Applicants are not precluded from seeking revival based on unintentional delay. Applicants are reminded that any delay in filing a petition will be considered in the determination of whether the entire delay was unintentional.

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

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

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

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

cc: Dennis Clarke
7422 Old Maple Square
McLean VA 22102

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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MILES & STOCKBRIDGE PC
1751 PINNACLE DRIVE, SUITE 500
MCLEAN, VA 22102-3833

MAILED

OCT 25 2010

OFFICE OF PETITIONS

In re Application of
Seth Y. ABLORDEPPEY
Application No. 11/394,158
Filed: March 31, 2006
Attorney Docket No. **T3716-11219US01**

DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 11, 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 Gianna Julian-Arnold on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future communications from the Office will be directed to the assignee of the entire interest at the address below until otherwise properly notified by the applicant.

The application became abandoned for failure to timely respond to the Office action mailed May 27, 2008.

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

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

cc: **FLORIDA AGRICULTURAL AND MECHANICAL UNIVERSITY**
OFFICE OF TECHNOLOGY TRANSFER, LICENSING & COMMERCIALIZATION
1540 S. ADAMS STREET, SUITE G – HOFFMAN BUILDING
TALLAHASSEE, FL 32301

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Paper No.

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

MAILED
MAR 28 2011
OFFICE OF PETITIONS

In re Application of	:	
Seth Ablordeppey	:	DECISION ON PETITION
Application No. 11/394,158	:	
Filed: March 31, 2006	:	
Attorney Docket No. T3716-11219US01	:	

This is a decision on the RENEWED PETITION UNDER 37 CFR 1.137(a) filed November 4, 2010. This decision also responds to the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) filed November 22, 2010.

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

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

The above-identified application became abandoned for failure to file a reply to the restriction requirement sent May 27, 2008. A courtesy Notice of Abandonment was sent on January 12, 2009. By decision mailed July 23, 2010, the initial petition under 37 CFR 1.137(a) was dismissed on the basis that applicant did not meet their burden of establishing that the delay was "unavoidable." By decision mailed October 1, 2010, the first renewed petition filed August 2, 2010 was also dismissed on the basis that applicant did not meet their burden of establishing that the delay was "unavoidable."

On instant second renewed petition under 37 CFR 1.137(a), it continues to be in dispute the undersigned's conclusion that the withdrawal of attorney is effective when approved not when

received and thus, the change of correspondence address was not effective. In view thereof, applicant's contention that the delay was unavoidable is not established. Applicant further cites a favorable decision on "identical" facts in a different case.

Applicant's arguments have been considered but not found persuasive. It is well-established that a withdrawal of attorney is effective when approved not when received. Applicant has not provided persuasive argument that this conclusion is incorrect. In fact, this notation of policy continues to be set forth in the new form "REQUEST FOR WITHDRAWAL …" form PTO/SB/83. Thus, notwithstanding the decision in the other application, the undersigned cannot conclude that under these circumstances the delay was unavoidable.

Applicant has, however, met the requirements for revival based on unintentional delay under 37 CFR 1.137(b). The petition filed November 22, 2010 includes the required reply in the form of an election, the required statement of unintentional delay with a separate statement of the exact facts relied on to conclude that the entire delay was unintentionally, and payment of the petition fee under 37 CFR 1.17(m). No terminal disclaimer is required.

Technology Center AU 1625 has been advised of this decision. The application is, thereby, forwarded to the examiner for consideration of the reply submitted on petition filed November 22, 2010.

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

Nancy Johnson

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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Alexandria, VA 22313-1450
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THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP
400 INTERSTATE NORTH PARKWAY SE
SUITE 1500
ATLANTA GA 30339

MAILED
AUG 30 2011
OFFICE OF PETITIONS

In re Application of :
Seth Y. Ablordeppey :
Application No. 11/394,158 : DECISION ON REQUEST
Filed: March 31, 2006 :
Attorney Docket No. 220602-1040 :

This is a decision on the request filed August 24, 2011, which is being treated as a Request For Refund and to charge the petition fee to an account.

The request is **DISMISSED**.

Applicant files the above request and states that "On November 22, 2010, the undersigned filed a Petition to Revive and Response to Restriction in this matter. A Government Fee of $810.00 was paid by Visa Credit Card number .... 12006. The fee should have been charged to our client's Deposit Account, (Florida A&M University) number 502945. Please credit the $810.00 to the above referenced Visa account, and charge the $810.00 to Deposit Account number 502945."

The request is dismissed because, **Christopher B. Linder, attorney of record and authorized user paid the fee by credit card** when e-filing the petition under 37 CFR 1.137(b), on November 22, 2010. Applicant states that the petition fee should have been paid by the client's Deposit Account, (Florida A&M University) number 502945. However, the Office will not refund a required fee that has been properly paid by an authorizer user of the credit card to have the fee afterwards charged to an account number. The petition fee paid ($810.00) on November 22, 2010, was not paid by mistake at the time of payment using the credit card account. Therefore, the request is dismissed. Applicant is encouraged to note 37 CFR 1.26.

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

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/394,186	03/31/2006	M. Clark Thompson	70205.0052US01	7349

95916 7590 09/30/2011
Merchant & Gould - Chevron
PO Box 2903
Minneapolis, MN 55402

EXAMINER
BENLAGSIR, AMINE

ART UNIT	PAPER NUMBER
2612	

MAIL DATE	DELIVERY MODE
09/30/2011	PAPER

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

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

Inventorship

1. In view of the papers filed November 22, 2010, it has been found that this nonprovisional application, as filed, through error and without deceptive intent, improperly set forth the inventorship, and accordingly, this application has been corrected in compliance with 37 CFR 1.48(a). The inventorship of this application has been changed by adding Brian C. Llewellyn as co-inventor.

The application will be forwarded to the Office of Initial Patent Examination (OIPE) for issuance of a corrected filing receipt, and correction of Office records to reflect the inventorship as corrected.

Any inquiry concerning this communication should be directed to DANIEL WU at telephone number (571)272-2964.

/DANIEL WU/
Supervisory Patent Examiner, Art Unit 2612

UNITED STATES 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. : **7651182**
Ser. No. : **11/394219**
Inventor(s) : **EVELAND, MICHAEL J.**
Issued : **01/26/2010**
Title : **ADJUSTABLE RETAINER ASSEMBLY FOR A REFRIGERATOR DOOR STORAGE UNIT**
Docket No. : **EVE004-118**

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.

In regards to the alleged error(s) in the Claims, Claim 4 and Claim 11 are printed in accordance with the Claims filed by the applicant/attorney.

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

A Certificate of Correction request, accompanied by the $100 fee, can be filed for reconsideration.

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

Diederiks & Whitelaw PLC
13885 Hedgewood DR., Suite 317
Woodbridge, VA 22193

OL

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/20/10

TO SPE OF : ART UNIT 3637 Jayne Darnell (spe)

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/394219 Patent No.: 7651182

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:

The change to claim 4 is approved. The change to claim 11 is denied as it is not considered a minor change since it changes the scope of the claim by materially affecting the meaning of the term "cavity" later in the claim.

/Darnell Jayne/ AU 3637

SPE

3637
Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/11/2011

TO SPE OF : ART UNIT 3637 Jayne Darnell (Spe)

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/394219 Patent No.: 7651182

CofC mailroom date: 2/24/2011

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Certificates of Correction Branch
703-756-1571 _____

Thank You For Your Assistance

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

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

Comments: _____

/Darnell Jayne/ AU 3637
SPE

3637
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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DIW Jan-11

BRANDON N. SKLAR. ESQ. (PATENT PROSECUTION)
KAYE SCHOLER, LLP
425 PARK AVENUE
NEW YORK NY 10022-3598

MAILED

JAN 06 2011

OFFICE OF PETITIONS

In re Application of Chen et al. Application Number: 11/394326 Filing Date: 03/30/2006 Attorney Docket Number: 34826-0011	: : : : : :	DECISION ON PETITION

This is a decision on the petition styled under 37 CFR 1.47, filed on October 27, 2010, which is treated as a petition under 37 CFR 1.183 seeking waiver of 37 CFR §§ 1.67 and 1.175 where they require that a supplemental declaration be executed by a named inventor.[1]

The petition is before the Office of Patent Legal Administration for decision.

The petition is **GRANTED**.

REVIEW OF FACTS

1. On March 30, 2006, the application was filed as a reissue of U.S. Patent No. 6,715,098.

2. On March 30, 2006, a reissue oath or declaration was filed.

3. On April 27, 2010, a final Office action was mailed, requiring, *inter alia*, a new reissue declaration.

4. On October 27, 2010, the subject petition was filed, accompanied by a Request for Continued Examination and submission

[1] Once an application has received a fully executed oath or declaration and been placed on the files for examination, the provisions of 37 CFR 1.47 no longer apply. Rather, the remedy for treating an inventor's refusal to also sign a supplemental oath or declaration is waiver of 37 CFR 1.67. See MPEP 603.

under 37 CFR 1.114. Petitioners state that a copy of the supplemental declaration was sent to the last known address of the non-signing inventor, but that no response was received.

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

In view of the efforts recounted in the petition to locate and obtain the signature of Stephen Anthony McNulty, on the supplemental declaration in compliance with 37 CFR 1.175, it is agreed that justice would be served by waiving the requirement for the signature of joint inventor McNulty on the supplemental declaration filed on October 27, 2010.

CONCLUSION

1. The petition is granted.

2. As a petition under 37 CFR 1.183 to waive 1.175 is required rather than a petition under 37 CFR 1.47, the petition fee due is $400.00. The balance due of $200.00 will be charged to counsel's deposit account as authorized in the Petition for Extension of Time Under 37 CFR 1.136(a) filed with the subject petition under 37 CFR 1.183.

3. The application is being referred to Technology Center Art Unit 2113 for further processing.

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

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

Kenneth M. Schor

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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PILLSBURY WINTHROP SHAW PITTMAN, LLP
P.O. BOX 10500
MCLEAN, VA 22102

MAILED
OCT 08 2010
OFFICE OF PETITIONS

In re Application of	:	
Johan F. DIJSMAN, et *al.*	:	
Application No. 11/394,334	:	DECISION GRANTING PETITION
Filed: March 31, 2006	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **081468-0350525**	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 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 September 24, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 1713 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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COOLEY LLP
ATTN: PATENT GROUP
SUITE 1100
777 - 6TH STREET, NW
WASHINGTON, DC 20001

MAILED

APR 11 2011

OFFICE OF PETITIONS

In re Application of	:	
BELYY, Andrey et al.	:	
Application No. 11/394,472	:	DECISION ON PETITION
Filed: March 31, 2006	:	TO WITHDRAW
Attorney Docket No. **BOBJ-065/01US 304661-2189**	:	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 11, 2011.

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

A review of the file record indicates that the change of address has been previously filed. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to Tredelle at 571-272- 2783.

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions

cc: **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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JONATHAN H. DINSMORE
26 WHITE PLA CE
BROOKLINE MA 02445

MAILED

DEC 20 2010

OFFICE OF PETITIONS

In re Application of
Jonathan H. Dinsmore et al.
Application No. 11/394,537
Filed: March 31, 2006
Attorney Docket No. 2006866-0051

DECISION ON PETITION

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 Restriction Requirement mailed April 1, 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 January 10, 2009 (one month after mailing of the Notice of January 9, 2009).

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

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

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

This application is being referred to Technology Center AU 1646 for appropriate action by the Examiner in the normal course of business on the reply received November 2, 2010.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Kevin M. Farrell
Pierce Atwood LLP
One New Hampshire Avenue
Suite 350
Portsmouth, NH 03801

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

MAILED
FEB 24 2012
OFFICE OF PETITIONS

In re Patent No. 7,570,922 :
Issue Date: 08/04/2009 :
Application No. 11/394,555 : DECISION DISMISSING PETITION
Filed: 03/31/2006 :
Attorney Docket No. 113377.004 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed February 17, 2012, requesting acceptance of a claim under 35 U.S.C. 120 for benefit of prior filed nonprovisional applications by way of a Certificate of Correction.

The petition is **DISMISSED**.

A review of the file record reveals that petitioners did not make a claim for benefit of the above-noted, prior-filed nonprovisional application within the time period set forth in 37 CFR 1.78(a)(2)(ii). Moreover, petitioners failed to include a proper reference to the prior-filed applications as required by 37 CFR 1.78(a)(2)(i) and (a)(2)(iii). As this application was filed after November 29, 2000, a petition under 37 CFR 1.78(a)(3), accompanied a Certificate of Correction and the required fees, is the appropriate avenue of relief for adding or correcting a claim for benefit of a prior-filed nonprovisional application after issuance of the application into a patent. See MPEP 1481.03.

The Office notes:

> Where priority is based upon 35 U.S.C. 120 to **a national application**, the following conditions must be satisfied:
>
> (A) all requirements set forth in 37 CFR 1.78(a)(1) must have been met in the application which became the patent to be corrected;
>
> (B) it must be clear from the record of the patent and the parent application(s) that priority is appropriate (see MPEP § 201.11); and

> (C) a grantable petition to accept an unintentionally delayed claim for the benefit of a prior application must be filed, including a surcharge as set forth in 37 CFR 1.17(t), as required by 37 CFR 1.78(a)(3).

MPEP 1481.03(II)(B) (emphasis in original).

If all the above-stated conditions are satisfied, a Certificate of Correction can be used to add or correct a claim under 35 U.S.C. 120 for benefit of a prior-filed nonprovisional application.

In this instance, petitioners have not satisfied condition (C) above because they did not submit a grantable petition under 37 CFR 1.78(a)(3).

A petition for acceptance of an unintentionally delayed claim under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. 120 and 37 CFR 1.78(a)(2)(i) and (iii) to the prior-filed application (unless previously submitted);

(2) the surcharge set forth in 37 CFR 1.17(t); and

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

The petition fails to comply with item (1) above.

The petition must be **dismissed** because the reference required by 35 U.S.C. 120 and 37 CFR 1.78(a)(2)(i) has not be properly supplied. Specifically, petitioners did not submit the reference in compliance with 37 CFR 1.78(a) by filing an amendment to the first sentence(s) of the specification or in a supplemental ADS. Pursuant to 37 CFR 1.78(a)(2)(iii), the reference to the prior-filed nonprovisional applications must be included in an application data sheet (§ 1.76) or the specification must contain or be amended to contain such reference in the first sentence(s) following the title.

Before, the petition under 37 CFR 1.78(a)(3) can be granted, petitioners must file a renewed petition under 37 CFR 1.78(a)(3), accompanied by either a supplemental ADS or an amendment to the specification to add the benefit claim.[1]

---

[1] The Office notes that 37 CFR 1.33(b) requires that amendments and other papers, except for written assertions pursuant to 37 CFR 1.27(c)(2)(ii), filed in an application must be signed by an appropriate party. Therefore, any supplemental ADS or amendment submitted on renewed petition must be signed in accordance with 37 CFR 1.33(b).

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

Correspondence may also be submitted electronically via EFS-Web.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3211.

/Christina Tartera Donnell/

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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525 B STREET
SUITE 2200
SAN DIEGO CA 92101

MAILED
MAR 07 2012
OFFICE OF PETITIONS

In re Patent No. 7,570,922	: DECISION GRANTING PETITION
Issue Date: 08/04/2009	: UNDER 37 CFR 1.78(a)(3)
Application No. 11/394,555	: AND REQUEST FOR CERTIFICATE
Filed: 03/31/2006	: OF CORRECTION
Attorney Docket No. 113377.004	:

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed March 1, 2012, requesting acceptance of a claim under 35 U.S.C. 120 for benefit of prior filed nonprovisional applications by way of a Certificate of Correction.

The petition is **GRANTED.**

A review of the file record reveals that petitioners did not make a claim for benefit of the above-noted, prior-filed nonprovisional applications within the time period set forth in 37 CFR 1.78(a)(2)(ii). Moreover, petitioners failed to include a proper reference to the prior-filed applications as required by 37 CFR 1.78(a)(2)(i) and (a)(2)(iii). As this application was filed after November 29, 2000, a petition under 37 CFR 1.78(a)(3), accompanied a Certificate of Correction and the required fees, is the appropriate avenue of relief for adding or correcting a claim for benefit of a prior-filed nonprovisional application after issuance of the application into a patent. See MPEP 1481.03.

A petition for acceptance of an unintentionally delayed claim under 37 CFR 1.78(a)(3) must be accompanied by:

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

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

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

All of the above requirements having been satisfied, the benefit claim under 35 U.S.C. 120 is accepted as being unintentionally delayed.

A corrected Filing Receipt, which includes the claim for benefit of the prior-filed nonprovisional applications, accompanies this decision on petition.

Petitioners are advised that the granting of this petition and the mailing of a corrected Filing Receipt should not be viewed as an indication that a determination has been made that this application is entitled to claim benefit of the prior-filed applications. A determination that petitioners are entitled to claim benefit of the prior-filed applications will be made by the Examiner prior to the mailing of a Certificate of Correction.

This application is being referred to the Certificates of Correction Branch for processing the request for a Certificate of Correction in accordance with this decision on the petition under 37 CFR 1.78(a)(3).

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

/Christina Tartera Donnell/

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/394,555	03/31/2006	2618	1200	113377.004	24	6

CONFIRMATION NO. 9106

CORRECTED FILING RECEIPT

27189
PROCOPIO, CORY, HARGREAVES & SAVITCH LLP
525 B STREET
SUITE 2200
SAN DIEGO, CA 92101

OC000000052957497

Date Mailed: 03/06/2012

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)
Douglas M. Williams, Del Mar, CA;

Assignment For Published Patent Application
RF Check, Inc.

Power of Attorney: The patent practitioners associated with Customer Number 27189

Domestic Priority data as claimed by applicant
This application is a CIP of 11/100,947 04/06/2005 ABN
which is a CIP of 10/215,495 08/08/2002

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

If Required, Foreign Filing License Granted: 04/25/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/394,555**

Projected Publication Date: Not Applicable

Non-Publication Request: No

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

Title

SYSTEM AND METHOD FOR AUTOMATED RADIO FREQUENCY SAFETY AND REGULATORY COMPLIANCE AT WIRELESS TRANSMISSION SITES

Preliminary Class

455

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where

the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

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

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

NOT GRANTED

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

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

MAILED

SEP 17 2010

OFFICE OF PETITIONS

In re Application of :
Mathew Coffey :
Application No. 11/394,609 :
Filed: March 31, 2006 :
Attorney Docket No.16596-01 :
4002 :
Title: METHODS FOR THE :
TREATMENT OF CELLULAR :
PROLIFERATIVE DISORDERS :

ON APPLICATION FOR
PATENT TERM ADJUSTMENT

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(B)," filed April 16, 2010. Applicant requests that the initial Determination of Patent Term Adjustment under 35 U.S.C. 154(b) be increased from 429 days to 588 days.

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

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is five hundred eighty-eight **(588)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

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

On March 31, 2010, the Office mailed a Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. Applicant was advised that the patent term adjustment to date is 429 days. In response, applicant timely filed the instant request for reconsideration of the patent term adjustment along with payment of the fee set forth in 37 C.F.R. § 1.18(e).

Applicant contends that a 159-day adjustment is required for the Office taking in excess of four months to reply filed February 6, 2009. Applicant states that an Office response was required by June 6, 2009, four months from the reply to the Office communication. A period of adjustment of 159 days should have been entered based on 37 CFR 1.702(a)(2). 37 CFR 1.702(a)(2) 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:
>
> > Respond to a reply under 35 U.S.C. 132 or to an appeal taken under 35 U.S.C. 134 not later than four months after the date on which the reply was filed or the appeal was taken;

In this instance, the Office took until November 12, 2009 to mail a non-final Office action in response to the response to the 37 CFR 105 Requirement for Information filed February 6, 2009. Pursuant to 37 CFR §1.703(a)(2), a period of adjustment of one hundred fifty-nine (159) days, counting the number of days in the period beginning on the day after the date that is four months after the date a reply was filed, February 6, 2009, and ending on the date of mailing of an action under 35 U.S.C. 132, November 12, 2009, should have been entered.

In view thereof, the correct determination of PTA at the time of the mailing of the notice of allowance is FIVE HUNDRED EIGHTY-EIGHTY (588) days.

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

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

Anthony Knight
Director
Office of Petitions

Enclosure: Copy of REVISED PALM Screen

Patent Term Adjustments

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

Application Number*: 11394609 Search Explanation of PTA Calculation Explanation of PTE Calculation

PTA Calculations for Application: 11394609

Application Filing Date	03/31/2006	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	429
A Delays	429	PTO Manual Adjustment	159
B Delays	0	Applicant Delay (APPL)	0
C Delays	0	Total PTA (days)	588

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
50	09/15/2010		P028	Adjustment of PTA Calculation by PTO	159		0
40	03/31/2010		MN/=.	Mail Notice of Allowance			0
39	03/26/2010		IREV	Issue Revision Completed			0
38	03/26/2010		DVER	Document Verification			0
37	03/26/2010		N/E.	Notice of Allowance Data Verification Completed			0
36	03/26/2010		DOCK	Case Docketed to Examiner in GAU			0
35	03/25/2010		CNTA	Notice of Allowability			0
34	01/20/2010		FWDX	Date Forwarded to Examiner			0
33	12/08/2009		A...	Response after Non-Final Action			0
32	11/12/2009		ELC_RVW	Electronic Review			0
31	11/12/2009		EML_NTF	Email Notification			0
30	11/12/2009		MCTNF	Mail Non-Final Rejection			0
29	11/06/2009		CTNF	Non-Final Rejection			0
24	09/17/2009		FWDX	Date Forwarded to Examiner			0
23	02/06/2009		R105	Response to Rule 105 Required for Information Filed			0
22	12/31/2008		ELC_RVW	Electronic Review			0
21	12/31/2008		EML_NTF	Email Notification			0
20	12/31/2008	10/10/2008	MCTMS	Mail Miscellaneous Communication to Applicant	82		13
19	12/22/2008		CTMS	Miscellaneous Action with SSP			0
14	06/14/2008		FWDX	Date Forwarded to Examiner			0
13	06/10/2008		ELC.	Response to Election//Restriction Filed			0
12	05/12/2008	05/31/2007	MCTRS	Mail Restriction Requirement	347		-1
11	05/09/2008		CTRS	Requirement for Restriction//Election			0
8	04/11/2007		CAD8	Correspondence Address Change			0
7	06/15/2006		TSSCOMP	IFW TSS Processing by Tech Center Complete			0
6	06/15/2006		DOCK	Case Docketed to Examiner in GAU			0
5	04/24/2006		OIPE	Application Dispatched from OIPE			0
4	04/24/2006		COMP	Application Is Now Complete			0
3	04/13/2006		IL194	Cleared by OIPE CSR			0
2	04/10/2006		SCAN	IFW Scan & PACR Auto Security Review			0
9	03/31/2006		WIDS	Information Disclosure Statement (IDS) Filed			0
1	03/31/2006		IEXX	Initial Exam Team nn			0

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/394,749	03/31/2006	Ilija Hadzic	7-1	2676

7590 02/08/2012
Ryan, Mason & Lewis, LLP
Suite 205
1300 Post Road
Fairfield, CT 06824

EXAMINER
SMITH, MARCUS

ART UNIT	PAPER NUMBER
2467	

MAIL DATE	DELIVERY MODE
02/08/2012	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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FEB 0 2012

DIRECTOR OFFICE
TECHNOLOGY CENTER 2400

Ryan, Mason & Lewis, LLP
Suite 205
1300 Post Road
Fairfield CT 06824

In re Application of:	:	
Hadzic, Ilija et al.	:	DECISION ON PETITION
Serial No.: 11/394,749	:	UNDER 37 C.F.R § 1.181
Filed: March 31, 2006	:	
Attorney Docket No.: 7-1	:	

This is a decision on the petition filed on October 13, 2011 under 37 C.F.R. 181, requesting the application be passed to the Board of Appeals and Interferences for review.
The petition is **GRANTED**.

Petitioner asserts that the applicants of the above-mentioned application have been seeking review of the examiner's decision by appealing to the Board of Appeals and Interferences since 2010 and have filed four separate appeal briefs, two of said briefs were directed to rejections using the same references.

35 U.S.C. 134 (a) states that "[a]n applicant for a patent, any of whose claims have been twice rejected, may appeal from the decision of the primary examiner to the Board of Appeals and Interferences, having once paid the fee for such appeal." A Notice of Appeal was filed by applicants on October 13, 2011 with the fee set forth in 37 C.F.R. 41.20(b)(1) within the time period provided under 37 C.F.R. 1.134, and an appeal brief was submitted on October 13, 2011. Furthermore, a review of the prosecution history of the application shows that at least one pending claim has been rejected at least twice by the examiner. Since applicants have complied with all requirements of the statute, the application will be passed to the Board of Appeals and Interferences.
The application will be forwarded to the examiner for review of the appeal brief filed October 13, 2011. An examiner's answer from the examiner will be issued in due course.
Any inquiry regarding this decision should be directed to Chau Nguyen, Workgroup Quality Assurance Specialist, at (571) 272-3126.

Timothy Callahan, TC Director
Technology Center 2400
Networks, Multiplexing, Cable and Security

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/394,749	03/31/2006	Ilija Hadzic	7-1	2676

7590 02/08/2012
Ryan, Mason & Lewis, LLP
Suite 205
1300 Post Road
Fairfield, CT 06824

EXAMINER
SMITH, MARCUS

ART UNIT	PAPER NUMBER
2467	

MAIL DATE	DELIVERY MODE
02/08/2012	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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FEB 0 2012

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Ryan, Mason & Lewis, LLP
Suite 205
1300 Post Road
Fairfield CT 06824

In re Application of:	:	
Hadzic, Ilija et al.	:	DECISION ON PETITION
Serial No.: 11/394,749	:	UNDER 37 C.F.R § 1.181
Filed: March 31, 2006	:	
Attorney Docket No.: 7-1	:	

This is a decision on the petition filed on October 13, 2011 under 37 C.F.R. 181, requesting the application be passed to the Board of Appeals and Interferences for review.
The petition is **GRANTED**.

Petitioner asserts that the applicants of the above-mentioned application have been seeking review of the examiner's decision by appealing to the Board of Appeals and Interferences since 2010 and have filed four separate appeal briefs, two of said briefs were directed to rejections using the same references.

35 U.S.C. 134 (a) states that "[a]n applicant for a patent, any of whose claims have been twice rejected, may appeal from the decision of the primary examiner to the Board of Appeals and Interferences, having once paid the fee for such appeal." A Notice of Appeal was filed by applicants on October 13, 2011 with the fee set forth in 37 C.F.R. 41.20(b)(1) within the time period provided under 37 C.F.R. 1.134, and an appeal brief was submitted on October 13, 2011. Furthermore, a review of the prosecution history of the application shows that at least one pending claim has been rejected at least twice by the examiner. Since applicants have complied with all requirements of the statute, the application will be passed to the Board of Appeals and Interferences.
The application will be forwarded to the examiner for review of the appeal brief filed October 13, 2011. An examiner's answer from the examiner will be issued in due course.
Any inquiry regarding this decision should be directed to Chau Nguyen, Workgroup Quality Assurance Specialist, at (571) 272-3126.

Timothy Callahan, TC Director
Technology Center 2400
Networks, Multiplexing, Cable and Security

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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
AUG 26 2010
OFFICE OF PETITIONS

In re Application of	:	
Joshua Park, et al.	:	
Application No. 11/394,755	:	DECISION GRANTING PETITION
Filed: March 31, 2006	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 8473/87669	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed August 24, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on July 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 regarding the examination or status of this application should be directed to the Technology Center.

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 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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FLASHPOINT TECHNOLOGY AND WITHROW & TERRANOVA
100 REGENCY FOREST DRIVE
SUITE 160
CARY, NC 27518

MAILED
SEP 10 2010
OFFICE OF PETITIONS

In re Application of :
Christopher M. Amidon et al :
Application No. 11/394,767 : ON PETITION
Filed: March 31, 2006 :
Attorney Docket No. 1104-099

This is a decision on the petition, filed September 9, 2010 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on August 24, 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 2443 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
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Alexandria, VA 22313-1450
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FlashPoint Technology and Withrow & Terranova
100 Regency Forest Drive
Suite 160
Cary NC 27518

MAILED
OCT 25 2010
OFFICE OF PETITIONS

In re Application of	:	
Christopher M. Amidon, et al.	:	
Application No. 11/394,767	:	DECISION GRANTING PETITION
Filed: March 31, 2006	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 1104-099	:	

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on September 28, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2443 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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Dora Valenzuela
15540 Septo St
Mission Hills CA 91345

MAILED
APR 28 2011
OFFICE OF PETITIONS

In re Application of :
Dora Ann VALENZUELA :
Application No. 11/394,867 :
Filed: March 31, 2006 :
Attorney Docket No. Valenzuela-001 :

ON PETITION

This is in response to the petition under 37 CFR 1.59(b), filed April 1, 2011, to expunge information submitted under MPEP 724.05(II).

The petition is **GRANTED.**

Petitioner requests that certain papers, filed November 12, 2010, be expunged from the application file. Petitioner states that either (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public.

The information in question has been determined by the undersigned to not be material to the examination of the instant application.

In a paper file, the unintentionally submitted exhibits could, but not necessarily would, have been physically removed from the file wrapper and returned to applicant. In the IFW realm the corresponding action(s) is to close the document and also remove such from the listing of "Public[ly available] Documents." It is agreed that it would be appropriate in this instance to close the information that was erroneously filed in the above identified application, and also remove such from the listing of publicly available documents for this Image File Wrapper (IFW).

Applicant is required to retain the expunged material(s) for the life of any patent which issues from the above-identified application.

In view of the above, the papers filed November 12, 2010 will be removed from the file.

Petitioner previously filed a petition fee of $270 for a Petition to Revive an Unavoidably Abandoned Application. However, the instant petition under 37 CFR 1.59 requires a petition fee of $200 as set forth in 37 CFR 1.17(g). Therefore, $70 will be refunded to petitioner in due course by Treasury Check

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

David Bucci
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 7/18/2011

TO SPE OF : ART UNIT 2438

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/394905 Patent No.: 7930735 B2

CofC mailroom date: 7/13/2011

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Note: _____

_____

Virginia Tolbert

Certificates of Correction Branch

(571) 272-0460

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

SPE

2438
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
www.uspto.gov

In re Application of
John Patrick McCook

Application No. 11394940

Filed: April 1,2006

Attorney Docket No. 590-1002

: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.

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	11/394,940	Confirmation Number	2820	Filing Date	2006-04-01
Attorney Docket Number (optional)	594-1003-200-US	Art Unit	1616	Examiner	Chui, Mei Ping
First Named Inventor	John Patrick McCook				
Title of Invention	Sunless tanning products and processes				

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

Best Available Copy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11-05-10

TO SPE OF : ART UNIT 1765

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/394956 Patent No.: 7790276

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Angela Green 703-756-1541
Certificates of Correction Branch
703-756-1814

Thank You For Your Assistance

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

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

Comments: _____

1796 _____ SPE _____ 1765 Art Unit

5/2011

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

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PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

MAILED

SEP 28 2010

OFFICE OF PETITIONS

In re Application
Erik Otto et al.
Application No. 11/395,024
Filed: March 31, 2006
Attorney Docket No. **LFS-5121USNP**

: DECISION ON APPLICATION
: FOR PATENT TERM ADJUSTMENT

This is in response to the "APPLICATIONS FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. 1.705(b) WITHIN THREE MONTHS OF RECEIPT OF THE NOTICE OF ALLOWANCE" filed August 17, 2010. Applicant requests that the determination of patent term adjustment be corrected from 525 days to 1172days. Applicant requests this correction in part on the basis that the Office will take in excess of three years to issue this patent and in light of the recent court decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. September 30, 2008).[1]

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

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentees are entitled to for Office failure to issue the patent within three years. See 37 CFR 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under 37 CFR 1.702(a)(4) or applicant delay under 37 CFR 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

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

[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).

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicants must timely file an application for patent term adjustment prior to the payment of the issue fee.[2]

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

On March 10, 2009, Applicants filed a response to the Restriction Requirement mailed February 19, 2009. Thereafter, a Notice of Non-Compliant Amendment was mailed May 22, 2009 to which Applicants filed a response on May 28, 2009. Applicants argue that the correct period of adjustment for the response filed May 28, 2010 6 days, not 79 days as determined by the office.

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

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

---

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

It is undisputed that a reply was filed on March 10, 2009 however, that reply had an omission and the omission was corrected on May 28, 2009, seventy-nine (79) days after the filing of the initial response on March 10, 2009. Therefore the reduction is proper.

In view thereof, it is concluded that the determination of patent term adjustment at the time of the mailing of the Notice of Allowance is 525 days.

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

In view thereof, the patent term adjustment at the time of mailing of the notice of allowance remains 525 days.

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

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

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

Anthony Knight
Director
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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OSHA LIANG L.L.P.
TWO HOUSTON CENTER
909 FANNIN, SUITE 3500
HOUSTON TX 77010

MAILED
OCT 13 2010
OFFICE OF PETITIONS

In re Patent No. 7,532,994
Issued: May 12, 2009
Application No. 11/395,094
Filed: March 31, 2006
Atty. Dkt. No.: 02008/338001

: FINAL AGENCY DECISION DENYING
: REQUEST FOR RECONSIDERATION OF
: PATENT TERM ADJUSTMENT

This is a decision on the "SECOND REQUEST FOR RECONSIDEARTION OF PATENT TERM ADJUSTMENT PURSUANT TO 37 C.F.R. § 1.705", filed April 15, 2010, contesting the reduction of patent term adjustment of 92 days assessed in accordance with 37 CFR 1.704(b) in connection with the submission of the request for continued examination (RCE) filed October 21, 2008.

The request for reconsideration is granted to the extent that the determination has been reconsidered; however, the request for reconsideration of patent term adjustment is **DENIED** with respect to making any change in the patent adjustment determination under 35 U.S.C. § 154(b) of 22 days. This decision may be viewed as a final agency action within the meaning of 5 U.S.C 704 and for purposes of seeking judicial review. See MPEP § 1002.02(b).

BACKGROUND

Notice of Allowance was mailed November 18, 2008. An application for patent term adjustment pursuant to 37 CFR 1.705(b) was timely filed December 2, 2008. A decision dismissing the application for patent term adjustment was mailed March 31, 2009. The above-identified application matured into U.S. Pat. No. 7,532,994 on May 12, 2009. The patent issued with a patent term adjustment of 22 days. A request for reconsideration of the decision mailed March 31, 2009 was filed May 8, 2009. The request for reconsideration of the patent term adjustment was again dismissed on March 29, 2010. Reconsideration of the patent term adjustment was again requested on April 15, 2010.

A final Office action was mailed April 21, 2008. A reply was filed June 20, 2008. An RCE was filed October 21, 2008. Patentees assert that the RCE was submitted to avoid abandonment because subsequent to the submission of the reply on June 20, 2008, the examiner did not mail either a Notice of Allowance or an Advisory Action. Patentees argue that the submission of the RCE did not constitute a reply to the final Office action, instead, patentees assert that the reply to the final Office action was the amendment filed June 20, 2008.

Patentees further argue that because the reply to the final Office action was filed within two months of the mail date of the final Office action, in accordance with MPEP 706.07(f), the

examiner had an affirmative duty to determine if the reply placed the application in condition for allowance. Patentees seemingly assert that the RCE should not be considered a failure to engage in reasonable efforts to conclude prosecution because had it not been for the Office's delay in issuing either an Advisory Action or a Notice of Allowance, applicants would not have needed to submit the RCE.

STATUTE AND REGULATION

35 U.S.C. § 154(b) as amended by § 4402 of the American Inventors Protection Act of 1999[1] (AIPA) provides that:

> (2) LIMITATIONS
>
> (C) REDUCTION OF PERIOD OF ADJUSTMENT. —
> (i) The period of adjustment of the term of a patent under paragraph (1) shall be reduced by a period equal to the period of time during which the applicant failed to engage in reasonable efforts to conclude prosecution of the application.
> (ii) With respect to adjustments to patent term made under the authority of paragraph (1)(B), an applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of 3 months that are taken to respond to a notice from the Office making any rejection, objection, argument, or other request, measuring such 3-month period from the date the notice was given or mailed to the applicant.
> (iii) The Director shall prescribe regulations establishing the circumstances that constitute a failure of an applicant to engage in reasonable efforts to conclude processing or examination of an application.

The implementing regulation, 37 CFR § 1.704, provides grounds for reduction of patent term adjustment due to failure to engage in reasonable efforts to conclude prosecution (processing or examination), provide:

> § 1.704 Reduction of period of adjustment of patent term.
> (a) The period of adjustment of the term of a patent under § 1.703(a) through (e) shall be reduced by a period equal to the period of time during which the applicant failed to engage in reasonable efforts to conclude prosecution (processing or examination) of the application.
> (b) 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

[1] Public Law 106-113, 113 Stat. 1501, 1501A-557 through 1501A-560 (1999).

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.

OPINION

Petitioner's arguments have been carefully considered, but are not found persuasive. The submission of an RCE more than three months after the mailing of a final Office action, with or without the prior issuance of an Advisory Action, is deemed a failure to engage in reasonable efforts to conclude prosecution or processing within the meaning of 37 CFR 1.704(b). The reduction commenced July 22, 2008 and ended October 21, 2008.

Applicants seemingly desired the Office to treat the RCE as a conditional reply to the final Office action. However, the Office policy is to treat a conditional RCE that is in compliance with 37 CFR 1.114 as if an RCE and payment of the fee set forth in 37 CFR 1.17(e) had been filed. See, MPEP 706.07(h).

Further, the Office must rely on the actions or inactions of duly authorized and voluntarily chosen representatives of the applicant, and applicant is bound by the consequences of those actions or inactions. Link v. Wabash, 370 U.S. 626, 633-34 (1962); Huston v. Ladner, 973 F.2d 1564, 1567, 23 UPSQ2d 1910, 1913 (Fed. Cir. 1992); see also, Haines v. Quigg, 673 F. Supp. 314, 317, 5 USPQ2d 1130, 1132 (D.N. Ind. 1987).

The final Office action advised applicants that the submission of a reply later than three months after the mail date of the final Office action, even if timely filed, might reduce any earned patent term adjustment under 37 CFR 1.704(b). Nonetheless, applicants' representatives requested continued examination in response to the outstanding final Office action. The consequences of such submission of the RCE, i.e., reduction in patent term adjustment, cannot now be avoided.

Patentees argue that MPEP 706.07(f) places upon the examiner an affirmative duty to determine whether the reply to the final Office action placed the application in condition for allowance. However, the purpose of MPEP 706.07(f) is to set forth a variable time period for reply to a final office action, depending on when applicant first replies to the final Office action. MPEP 706.07(f) does not prescribe a time period for the Office to mail either an Advisory Action or a Notice of Allowance in response to a reply to a final Office action.

At applicants request and submission of a compliant RCE, the previously unentered amendment filed June 20, 2008 was entered into the record and the finality of the final Office action was withdrawn. As a result, the Notice of Allowance and Notice of Allowability mailed November 18, 2008 were issued in response to the RCE and submission (previously filed amendment) filed October 21, 2008, not the amendment filed June 20, 2008.

As the reply to the final Office action filed October 21, 2008 was filed more than three months after the mail date of the final Office action, the 92 day reduction was properly assessed in accordance with 37 CFR 1.704(b).

Accordingly, no adjustment to the patent term will be made.

CONCLUSION

The request for reconsideration of the revised patent term adjustment is denied. This decision may be viewed as a final agency action. See MPEP § 1002.02(b).

The Office acknowledges that patentees previously submission of the required $200.00 fee set forth in §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 Alesia M. Brown, Senior Petitions Attorney, at (571) 272-3205.

Anthony Knight
Director
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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PRAXAIR, INC.
LAW DEPARTMENT - M1 557
39 OLD RIDGEBURY ROAD
DANBURY CT 06810-5113

MAILED
DEC 15 2010
OFFICE OF PETITIONS

In re Application of
Shah et al.
Application No. 11/395,137
Filed: April 3, 2006
Attorney Docket No.21594

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 10, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely submit the issue and publication fees, as required by the Notice of Allowance and Fee (s) Due, which was mailed July 23, 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 October 24, 2010. A Notice of Abandonment was mailed on November 5, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the $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
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/395,185	04/03/2006	Kazuo Sato	288944US-2 DIV	1480

22850 7590 01/21/2011
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER
BARTON, JEFFREY THOMAS

ART UNIT	PAPER NUMBER
1795	

NOTIFICATION DATE	DELIVERY MODE
01/21/2011	ELECTRONIC

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

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

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

patentdocket@oblon.com
oblonpat@oblon.com
jgardner@oblon.com

UNITED STATES PATENT and TRADEMARK OFFICE
UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

Mailed: 1/21/2011

CHK
Paper No.

In re Application of KAZUO SATO ET AL.
Serial No.: 11/395185
Filed: October 19, 2007
For: SUBSTRATE WITH TRANSPARENT CONDUCTIVE OXIDE FILM, PROCESS FOR ITS PRODUCTION AND PHOTOELECTRIC CONVERSION ELEMENT

DECISION ON PETITION UNDER *37 CFR 1.182*

This is a decision on the PETITION filed April 29, 2009 to accept the statement under 37 CFR 1.324 (b) executed by the legal representative of Kazuo Sato (deceased) under 37 CFR 1.182.

Applicants filed a petition under 1.324 to correct inventorship. An original inventor, Kazuo Sato is now deceased. The petitioner requests that a statement executed by the legal representative of the deceased inventor (submitted with the 324 petition) be accepted or that the Office waive the requirement in the case of deceased inventor Sato.

The Office accepts the statement executed by the legal representative of the deceased inventor.

The request is **GRANTED**.

The application file is being forwarded to the appropriate section of the Patent and Trademark Office for correction of the record.

/Cynthia H. Kelly/
Cynthia H. Kelly
Supervisory Patent Examiner
Technology Center 1700

UNITED STATES 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

David A. Lowin
Chemin dela Viane 37
Le Mont-sur-Lausanne CH105-2 CH SWITZERLAND

In re Application of	:
Brooks-Korn	: DECISION ON PETITION
Application No. 11/395,200	:
Filed: April 3, 2006	:
Atty. Dkt. No.: 7164P1	:

This decision is in response to the petition under 37 CFR 1.137(b), filed November 17, 2010.

The petition is **GRANTED**.

The application became abandoned June 5, 2010 for failure to timely submit a proper reply to the non-final Office action mailed March 4, 2010. The non-final Office action set a three month shortened statutory period of time for reply. No petition for extension of time under 37 CFR 1.136(a) was timely filed. Notice of Abandonment was mailed October 21, 2010.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by: (1) the required reply to the outstanding Office action or notice, unless previously filed; (2) the petition fee as set forth in 37 C.F.R. § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee set forth in 37 C.F.R. § 1.20(d)) required pursuant to 37 C.F.R. § 1.137(c).

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

This application is being forwarded to Group Art Unit 1627 for further processing.

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

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Colin P. Abrahams
Suite 400
5850 Canoga Avenue
Woodland Hills CA 91367

MAILED
JUN 21 2011
OFFICE OF PETITIONS

In re Application of :
Scott Bradley BAKER : ON PETITION
Application No. 11/395,283 :
Filed: March 31, 2006 :
Atty. Docket No.: 1321-105.US

This is a decision on the petition under 37 CFR 1.137(b), filed May 3, 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 March 30, 2009, which set a shortened statutory period for reply of three (3) months. No reply was received. The application became abandoned on July 1, 2009. A Notice of Abandonment was mailed February 2, 2010.

The petition satisfies the conditions for revival pursuant to 37 CFR 1.137(b) by including (1) reply in the form of a Response to the nonfinal Office action mailed March 30, 2009, (2) a petition fee of $810 (small entity), and (3) a statement of unintentional delay. The reply to the nonfinal 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 file will be referred to Technology Center Art Unit 3612 for further action on the filed Response.

for
David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT
AND TRADEMARK OFFICE

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

Date Mailed: October 4, 2010
Patent No. : 7,738,269 B2
Ser. No. :11/395341
Issued September 29, 2010
Inventor(s) Shinya Goto, et al.
Title SWITCHING DEVICE AND RELATED OPERATING METHOD

Request for Certificate of Correction

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

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

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

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

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

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

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

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

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

By fax: (571) 273-0025
ATTN: Office of Petitions

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

Magdalene Talley
For Mary F. Diggs, Supervisor
Decisions & Certificates
of Correction Branch
(571) 272-0423

Oliff & Berridge, PLC
P.O. Box 320850
Ann M. Skerry
Alexandria, VA 22320-4850

MD/mt

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OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA VA 22320-4850

MAILED
JUL 05 2011
OFFICE OF PETITIONS

In re Patent No. 7,738,269 :
Issue Date: June 15, 2010 :
Application No. 11/395,341 : ON PETITION
Filed: April 3, 2006 :
Attorney Docket No.127551 :

This is a decision on the petition filed October 14, 2010, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the address of 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) 272-3215. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate 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.

Charlema Grant
Attorney
Office of Petitions

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5/26/10

TO SPE OF : ART UNIT 3739

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/395418 Patent No.: 7699855 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: _____

/John P Leubecker/ 8/2/10

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NEIL S. GOLDSTEIN
CADILLAC JACK, INC.
2420 MEADOWBROOK PARKWAY
DULUTH GA 30096

MAILED

NOV 02 2010

OFFICE OF PETITIONS

In re Application of	:	
Michael M. Macke	:	
Application No. 11/395,445	:	DECISION ON PETITION
Filed: March 31, 2006	:	
Attorney Docket No.	:	

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

The petition is **GRANTED**.

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

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $810, and (3) a proper statement of unintentional delay. Accordingly, the reply to the non-final Office June 24, 2009, 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.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178

(October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

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

This application is being referred to Technology Center AU 3714 for appropriate action on the concurrently filed amendment.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

cc: **ROB L. PHILLIPS**
GREENBERG TRAURIG
3773 HOWARD HUGHES PKWY.
SUITE 400 NORTH
LAS VEGAS NV 89169

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WINSTEAD PC
P.O. BOX 50784
DALLAS, TX 75201

MAILED
MAY 23 2011
OFFICE OF PETITIONS

In re Patent No. 7,340,042 :
Issue Date: March 4, 2008 :
Application No. 11/395,511 : NOTICE
Filed: March 31, 2006 :
Attorney Docket No. 46731-P001US

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

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

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

Inquiries related to this communication should be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

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Commissioner for Patents
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Alexandria, VA 22313-1450
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FOLEY AND LARDNER LLP
3000 K STREET NW, SUITE 500
WASHINGTON, DC 20007

MAILED

MAR 14 2011

OFFICE OF PETITIONS

In re Application of	:	
Alexesy V. BRIK	:	
Application No. 11/395,582	:	DECISION ON PETITION
Filed: March 30, 2006	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. **033246-0177**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 27, 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 July 1, 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 August 2, 2009.

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

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

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $245 extension of time fee submitted with the petition on August 27, 2010 was subsequent to the maximum extendable period for reply, petitioner may request a refund of this fee by writing to the following address: Mail Stop 16, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450. A copy of this decision should accompany petitioner's request.

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

This application is being referred to Technology Center AU 1791 for appropriate action by the Examiner in the normal course of business on the reply received August 27, 2010.

Thurman K. Page
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
www.uspto.gov

Arris Group, Inc.
3871 LAKEFIELD DRIVE
SUWANEE GA 30024

MAILED
DEC 30 2011
OFFICE OF PETITIONS

In re Application of

Negahdar :

Application No. 11/395,588

: DECISION ON PETITION

Filed: March 30, 2006

:

Attorney Docket No. **8228**

This is a decision on the petition under 37 CFR 1.137(b), filed December 14, 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 Notice of Non-compliant Amendment mailed March 30, 2011, which set a shortened statutory period for reply of one (1) month from its mailing date. No extension of time pursuant to 37 CFR 1.136(a) was obtained within the allowable period. Accordingly, the application became abandoned on May 1, 2011. A Notice of Abandonment was mailed November 14, 2011.

The amendment filed December 14, 2011, is noted.

The application is being forwarded to Technology Center 2400, GAU 2433 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

DEC 19 2011

OFFICE OF PETITIONS

Fish & Richardson PC
P.O.Box 1022
Minneapolis MN 55440

In re Patent No. 8,036,213 Tran et al. Issue Date: October 11, 2011 Application No. 11/395,846 Filed: March 30, 2006 Attorney Docket No. 26310-0167001 Title: SYSTEM AND METHOD FOR ENHANCING NETWORK STABILITY BY SELECTIVELY CONTROLLING ADJACENCY FORMATION	DECISION ON REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT

This is a decision on the petition filed on December 12, 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 nine hundred thirty-five (935) days.

The request for reconsideration of the patent term adjustment (PTA) pursuant to 37 CFR 1.705(d) is **DISMISSED**.

The above-identified application matured into U.S. Pat. No. 8,036,213 on October 11, 2011. The patent issued with a patent term adjustment of 839 days. The instant application for patent term adjustment was timely filed in accordance with 37 CFR 1.705(d). Patentees contest the period of adjustment of 363 days accorded pursuant to 37 CFR 1.702(b) and assert that the correct period of adjustment under 37 CFR 1.702(b) is 488 days. Patentees also dispute the 1 day reduction for the submission of the response on March 29, 2010.

As to patentees' argument regarding the 1 day reduction, patentees' argument is untimely. Issues that should have been raised on application for patent term adjustment under 37 CFR 1.705(b) are untimely if first raised on request for reconsideration under 37 CFR 1.705(d). Issues under 37 CFR

1.705(d) are those tied to the revised determination calculated after the mailing of the notice of allowance. As such challenges to calculations determined prior to the notice of allowance (and reflected in the determination sent with the notice of allowance) are untimely when first presented under 1.705(d).

Patentees' arguments have been carefully considered, but are not persuasive. The period of adjustment pursuant to 37 CFR 1.702(b) was properly calculated at 363 days.

35 USC 154(b)(1)(B) states in relevant part:

Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including — (i) any time consumed by continued examination of the application requested by the applicant under section 132(b).

37 CFR 1.702(b) states in relevant part:

Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application, but not including: (1) Any time consumed by continued examination of the application under 35 U.S.C. 132(b).

37 CFR 1.703(b) states in relevant part:

The period of adjustment under § 1.702(b) is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the sum of the following periods: (1) The number of days, if any, in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued.

Counting the period of time excluded from the "B delay" for the filing of a request for continued examination under 35 U.S.C. 132(b), from the date on which the request for continued examination is filed to the date the patent is issued is proper. Patentee does not dispute that time consumed by continued examination of an application under 35 U.S.C. 132(b) is properly excluded and that the calculation of the excluded period begins on the date of filing of the request for continued examination. At issue is what further processing or examination beyond the date of filing of the request for continued examination is time consumed by continued examination of the application under 35 U.S.C. 132(b). The USPTO indicated in September of 2000 in the final rule to implement the patent term adjustment provisions of the AIPA that once a request for continued examination under 35 U.S.C. 132(b) and 37 CFR 1.114 is filed in an application, any further processing or examination of the application, including granting of a patent, is by virtue of the continued examination given to the application under 35 U.S.C. 132(b) and CFR 1.114. See Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term, 65 Fed. Reg. 56365, 56376 (Sept. 18, 2000) (response to comment 8). Thus, the excluded period begins with the filing of the request for continued examination and ends with the issuance of the patent.

Patentees' argument that the period of time after the issuance of a notice of allowance on a request for continued examination is not "any time consumed by continued examination requested by the applicant under section 132(b)" within the meaning of 35 U.S.C. 154(b)(1)(B)(i) is not availing. This limitation is not supported by the statutory language. Garcia v. United States, 469 U.S. 70, 75 (1984) ("only the most extraordinary showing of contrary intentions from [legislative history] would justify a limitation on the 'plain meaning' of the statutory language"). BP Am. Prod. Co. v. Burton, 549 U.S. 84, 91 (2006) ("Unless otherwise defined, statutory terms are generally interpreted in accordance with their ordinary meaning"). The statute provides for a guarantee of no more than 3-year application pendency, by providing for an adjustment in the patent term:

First, "Subject to the limitations of paragraph (2)," means that the limitations of paragraph 2 apply to this paragraph's adjustment of patent term. That is, the day-to-day extension of patent term for pendency beyond the 3 year period is restricted as follows: 1) "B delay" cannot accrue for days of "A delay" that overlap, 2) the patent term cannot be extended beyond

disclaimed term, and 3) the period of adjustment, including accrued "B delay," will be reduced for applicant delay.

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

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

Furthermore, these clauses are interpreted using their ordinary meanings. Nonetheless, the context of the legislation should be considered. As stated in Wyeth v. Dudas, No. 07-1492, 2008 U.S. Dist. LEXIS 76063 (D.D.C., September 30, 2008), because the clock for calculating the 20-year patent term begins to run on the filing date, and not on the day the patent is actually granted, some of the effective term of a patent is consumed by the time it takes to prosecute the application. To mitigate this First, "Subject to the limitations of paragraph (2)," means that the limitations of paragraph 2 apply to this paragraph's

adjustment of patent term. That is, the day-to-day extension of patent term for pendency beyond the 3 year period is restricted as follows: 1) "B delay" cannot accrue for days of "A delay" that overlap, 2) the patent term cannot be extended beyond disclaimed term, and 3) the period of adjustment, including accrued "B delay," will be reduced for applicant delay.

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

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

---

[1] Clause (iii) provides for not including (iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued. It is noted that paragraph (3)(C) allows with an adequate showing by applicant for reinstatement of no more than 3 months of the patent term reduced for applicant delay in taking in excess of three months to respond.

patent term will accrue for each day that the application is pending until the day the patent is issued.

The "time consumed by" or used in the course of the continued examination of the application requested by the applicant under section 132(b) does not end until issuance of the patent. 35 U.S.C. 132(b) was enacted under the same title, the "American Inventors Protection Act of 1999," as 35 U.S.C. 154(b). Section 4403 of the AIPA amended 35 U.S.C. § 132 to provide, at the request of the applicant, for continued examination of an application for a fee (request for continued examination or RCE practice), without requiring the applicant to file a continuing application under 37 CFR 1.53(b) or a continued prosecution application (CPA) under 37 CFR 1.53(d). Thus, clause (i) is different from clause (ii) in that clause (i) refers to an examination process whereas clause (ii) refers to time consumed by proceedings (interferences, secrecy orders and appeals) in an application.

By nature, the time used in the course of the examination process continues to issuance of the patent. The examination process involves examining the application to ascertain whether it appears that the applicant is entitled to a patent under the law. See 35 U.S.C. 131 ("[t]he Director shall cause an examination to be made of the application and the alleged new invention; and if on such examination it appears that the applicant is entitled to a patent under the law, the Director shall issue a patent therefor"). If on examination it appears that the applicant is entitled to a patent, the USPTO issues a notice of allowance. See 35 U.S.C. 151 ("[i]f it appears that applicant is entitled to a patent under the law, a written notice of allowance of the application shall be given or mailed to the applicant"). If on examination it appears that the applicant is not entitled to a patent, the USPTO issues a notice (an Office action) stating the applicable rejection, objection, or other requirement, with the reasons therefor. See 35 U.S.C. 132 ("[w]henever, on examination, any claim for a patent is rejected, or any objection or requirement made, the Director shall notify the applicant thereof, stating the reasons for such rejection, or objection or requirement, together with such information and references as may be useful in judging of the propriety of continuing the prosecution of his application"). Neither the issuance of a notice of allowance nor the issuance of an Office action terminates the examination process. If after the issuance of an Office action under 35 U.S.C. 132 it

subsequently appears that the applicant is entitled to a patent (e.g., in response to an argument or amendment by the applicant), the USPTO will issue a notice of allowance. Conversely, if after the issuance of a notice of allowance under 35 U.S.C. 151 it subsequently appears that the applicant is not entitled to a patent (e.g., in response to information provided by the applicant or uncovered by the USPTO), the USPTO will withdraw the application from issuance and issue an Office action under 35 U.S.C. 132 stating the applicable rejection, objection, or other requirement, with the reasons therefor.

As held in Blacklight Power, the USPTO's responsibility to issue a patent containing only patentable claims does not end with the issuance of a notice of allowance under 35 U.S.C. 151. See BlackLight Power, Inc. v. Rogan, 295 F.3d 1269, 1273 (Fed. Cir. 2002). Rather, if there is any substantial, reasonable ground within the knowledge or cognizance of the Director as to why an application should not issue, it is the USPTO's duty to refuse to issue the patent even if a notice of allowance has previously been issued for the application. See In re Drawbaugh, 9 App. D.C. 219, 240 (D.C. Cir 1896).

Moreover, the applicant continues to be engaged in the examination process after the mailing of the notice of allowance. 37 CFR 1.56 makes clear that the applicant has a duty to disclose information material to patentability as long as the application is pending before the USPTO (i.e., until a patent is granted or the application is abandoned). See 37 CFR 1.56(a) ("[t]he duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned"). 37 CFR 1.97 and 1.98 provide for the consideration of information submitted by the applicant after a notice of allowance has been mailed. See 37 CFR 1.97(d). In addition, 37 CFR 1.312 provides for the amendment of an application after a notice of allowance has been mailed. In fact, the request for examination procedures[2] permit the filing of a request for continued examination under 37 CFR 1.114 even after the issuance of a notice of allowance under 35 U.S.C. 151. See 37 CFR 1.114(a)(1).

As the examination process does not terminate with the mailing of the notice of allowance, the time consumed by continued

[2] Thus, on occasion, even where a request for continued examination has already been filed and a notice of allowance issued pursuant to that request, applicant may file a further request for continued examination.

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

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

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

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

Charlema Grant

Charlema Grant
Attorney Advisor
Office of Petitions

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Salt Lake City UT 84111

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JUN 22 2011

OFFICE OF PETITIONS

In re Patent No. 7,564,041	:	
Issue Date: 07/21/2009	:	
Application No. 11/396,090	:	ON PETITION
Filed: 03/31/2006	:	
Attorney Docket No. 10256.139	:	

This is a decision on the petition under 37 CFR 3.81(b) filed September 28, 2009.

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

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

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

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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MICHAEL GERTNER
P.O. BOX P
MENLO PARK, CA 94026

MAILED
JUN 20 2011
OFFICE OF PETITIONS

In re Application of	:	
Michael Gertner	:	
Application No. 11/396,160	:	DECISION ON PETITION
Filed: March 31, 2006	:	
Attorney Docket No. MIN033106	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers (Notice), mailed March 22, 2011. The Notice set a period for reply of two (2) months from the mail date of the Notice. Accordingly, the application became abandoned on May 25, 2011.

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

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

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6059. Telephone inquiries related to Data Management processing should be directed to their hotline at (271) 272-4200.

A. Kelley Collier

Alicia Kelley-Collier
Petitions Examiner
Office of Petitions

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SAN JOSE CA 95134-1709

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DEC 29 2011
OFFICE OF PETITIONS

In re Application of	:	
Tao Peng, et al.	:	
Application No. 11/396,179	:	DECISION GRANTING PETITION
Filed: March 30, 2006	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. CD06024	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, December 24, 2011 to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

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

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

This application is being referred to Technology Center AU 2629 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

[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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AT&T Legal Department - CC
Attn: Patent Docketing
Room 2A-207
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Bedminster NJ 07921

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OFFICE OF PETITIONS

In re Application of	:	
Richard Palazzo	:	
Application No. 11/396,188	:	DECISION ON PETITION
Filed: March 31, 2006	:	
Attorney Docket No. BLL0697US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 15, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed September 17, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on December 18, 2009. A Notice of Abandonment was mailed on June 4, 2010.

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

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

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record. Telephone inquiries regarding this decision should be directed to the Kimberly Inabinet at (571) 272-4618.

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

This application is being referred to Technology Center AU 2614 for appropriate action by the Examiner in the normal course of business on the reply received July 15, 2010.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: David A. Fox
Cantor Colburn, LLP
20 Church Street, 22nd Floor
Hartford, CT 06103-3207

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

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MAR 14 2011

OFFICE OF PETITIONS

In re Application of	:	
EDWARD K.Y. JUNG, ET AL.	:	
Application No. 11/396,279	:	DECISION ON PETITION
Filed: March 31, 2006	:	TO WITHDRAW
Attorney Docket No. **QQ1-0141US**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed January 27, 2011.

The request is **NOT APPROVED**.

The request cannot be approved because the Office no longer accept address changes to a new practitioner/customer number or law firm filed with a request, absent the filing of a power of attorney to the new representative.

The Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest *who properly became of record under 37 CFR 3.71* or, the most current address information provided for the first named inventor. 37 CFR 3.71(c) states:

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

The assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, the statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

A courtesy copy of this decision is being mailed to the address on the request. However, all future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

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

JoAnne Burke
Petitions Examiner
Office of Petitions

cc: LEE & HAYE, PLLC
601 W RIVERSIDE
SUITE 1400
SPOKANE, WA 99201

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FISH & RICHARDSON P.C.
PO BOX 1022
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In re Patent No. 7,933,890
Issued: April 26, 2011
Application No. 11/396,301
Filed: March 31, 2006
Attorney Docket No. 16113-1583001

: 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) filed on June 24, 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 127 to 254 days.

The petition to correct the patent term adjustment is **DISMISSED**.

BACKGROUND

On April 26, 2011, the above-identified application matured into U.S. Patent No. 7,933,890, with a revised patent term adjustment of 127 days. On June 24, 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 254. 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 December 21, 2010, thereby closing examination of the application on that date. Thus, Patentee argues no continued examination took place during the 127 day period from December 21, 2010 (the mailing date of the Notice of Allowance) until April 26, 2011 (the date the patent was issued). As such, Patentee maintains that the "B delay" should include the 127 days and be increased from 56 to 183 days. Patentee concludes that the correct patent term adjustment is 254 days (the sum of 350 days of "A delay" and 183 days of "B delay" minus 279 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 56 days based on the application having been filed under 35 U.S.C.

111(a) on March 31, 2006 and the patent not having issued as of the day after the three year date, March 31, 2009, and a request for continued examination under 132(b) having been filed on May 27, 2009. In other words, the 127-day period beginning on the date of mailing of the notice of allowance to the date of issuance of the patent was considered time consumed by continued examination of an application under 35 U.S.C. 132(b) and was not included in the "B delay."

The Office's calculation of "B delay" is correct. The "B delay" is an adjustment entered if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed. However, the adjustment does not include, among other things, any time consumed by continued examination of the application at the request of the applicant under 35 U.S.C. 132(b)[1]. So, with respect to calculating the "B delay" where applicant has filed a request for continued examination, the period of adjustment is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the number of days in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued.

Further, counting the period of time excluded from the "B delay" for the filing of a request for continued examination under 35 U.S.C. 132(b), from the date on which the request for continued examination is filed to the date the patent is issued is proper. Patentee does not dispute that time consumed by continued examination of an application under 35 U.S.C. 132(b) is properly excluded and that the calculation of the excluded period begins on the date of filing of the request for continued examination. At issue is what further processing or examination beyond the date of filing of the request for continued examination is not any time consumed by continued examination of the application under 35 U.S.C. 132(b). The USPTO indicated in September of 2000 in the final rule to implement the patent term adjustment provisions of the AIPA that once a request for continued examination under 35 U.S.C. 132(b) and 37 CFR 1.114 is

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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 May 27, 2009, and the patent issued by virtue of that request on April 26, 2011. Pursuant to 35 U.S.C. 154(b)(1)(B)(i), the period beginning on May 27, 2009 and ending on April 26, 2011 is not included in calculating Office delay.

CONCLUSION

In view thereof, it is concluded that the patent term adjustment of 127 days indicated on the patent is correct.

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 Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

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In re Patent No. 7,933,890
Issued: April 26, 2011
Application No. 11/396,301
Filed: March 31, 2006
Attorney Docket No. 16113-1583001

: DECISION ON REQUEST
: FOR RECONSIDERATION
: OF PATENT TERM ADJUSTMENT

This is a decision on the request for reconsideration filed September 9, 2011, pursuant to 37 CFR §1.705(d), requesting that the patent term adjustment indicated on the above-identified patent be corrected from from 127 to 254 days.

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 patent term adjustment indicated in the previous decision mailed July 11, 2011 is properly indicated.

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 December 21, 2010, thereby closing examination of the application on that date. Thus, Patentee argues no continued examination took place during the 127 day period from December 21, 2010 (the mailing date of the Notice of Allowance) until April 26, 2011 (the date the patent was issued). As such, Patentee maintains that the "B delay" should include the 127 days and be increased from 127 to 254 days.

RELEVANT STATUTE AND REGULATIONS

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

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

(i) any time consumed by continued examination of the application requested by the applicant under section 132(b);

(ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or 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

Applicant's arguments have been considered.

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 56 days based on the application having been filed under 35 U.S.C. 111(a) on March 31, 2006 and the patent not having issued as of the day after the three year date, March 31, 2009, and a request for continued examination under 132(b) having been filed on May 27, 2009. In other words, the 127-day period beginning on the date of mailing of the notice of allowance to the date of issuance of the patent was considered time consumed by continued examination of an application

under 35 U.S.C. 132(b) and was not included in the "B delay."

The Office's calculation of "B delay" is correct. The "B delay" is an adjustment entered if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed. However, the adjustment does not include, among other things, any time consumed by continued examination of the application at the request of the applicant under 35 U.S.C. 132(b)[1]. So, with respect to calculating the "B delay" where applicant has filed a request for continued examination, the period of adjustment is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the number of days in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued.

Further, counting the period of time excluded from the "B delay" for the filing of a request for continued examination under 35 U.S.C. 132(b), from the date on which the request for continued examination is filed to the date the patent is issued is proper. Patentee does not dispute that time consumed by continued examination of an application under 35 U.S.C. 132(b) is properly excluded and that the calculation of the excluded period begins on the date of filing of the request for continued examination. At issue is what further processing or examination beyond the date of filing of the request for continued examination is not any time consumed by continued examination of the application under 35 U.S.C. 132(b). The USPTO indicated in September of 2000 in the final rule to implement the patent term adjustment provisions of the AIPA that once a request for continued examination under 35 U.S.C. 132(b) and 37 CFR 1.114 is filed in an application, any further processing or examination of the application, including granting of a patent, is by virtue of the continued examination given to the application under 35 U.S.C. 132(b) and CFR 1.114. See Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term, 65 Fed. Reg. 56366, 56376 (Sept.

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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.

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 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.

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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.

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

The "time consumed by" or used in the course of the continued examination of the application requested by the applicant under section 132(b) does not end until issuance of the patent. 35 U.S.C. 132(b) was enacted under the same title, the "American Inventors Protection Act of 1999," as 35 U.S.C. 154(b). Section 4403 of the AIPA amended 35 U.S.C. § 132 to provide, at the request of the applicant, for continued examination of an application for a fee (request for continued examination or RCE practice), without requiring the applicant to file a continuing application under 37 CFR 1.53(b) or a continued prosecution application (CPA) under 37 CFR 1.53(d). Thus, clause (i) is different from clause (ii) in that clause (i) refers to an examination process whereas clause (ii) refers to time consumed by proceedings (interferences, secrecy orders and appeals) in an application.

By nature, the time used in the course of the examination process continues to issuance of the patent. The examination process involves examining the application to ascertain whether it appears that the applicant is entitled to a patent under the law. See 35 U.S.C. 131 ("[t]he Director shall cause an examination to be made of the application and the alleged new invention; and if on such examination it appears that the applicant is entitled to a patent under the law, the Director shall issue a patent therefor"). If on examination it appears that the applicant is entitled to a patent, the USPTO issues a notice of allowance. See 35 U.S.C. 151 ("[i]f it appears that applicant is entitled to a patent under the law, a written notice of allowance of the application shall be given or mailed to the applicant"). If on examination it appears that the applicant is not entitled to a patent, the USPTO issues a notice (an Office action) stating the applicable rejection, objection, or other requirement, with the reasons therefor. See 35 U.S.C. 132 ("[w]henever, on examination, any claim for a patent is rejected, or any objection or requirement made, the Director shall notify the applicant thereof, stating the reasons for such rejection, or objection or requirement, together with such information and references as may be useful in judging of the propriety of continuing the prosecution of his application"). Neither the issuance of a notice of allowance nor the insurance of an Office action terminates the examination process. If after the issuance of an Office action under 35 U.S.C. 132 it subsequently appears that the applicant is entitled to a patent (e.g., in response to an argument or amendment by the applicant), the USPTO will issue a notice of allowance. Conversely, if after the issuance of a notice of allowance under 35 U.S.C. 151 it subsequently appears that the applicant is not entitled to a patent (e.g., in response to information provided by the applicant or uncovered by the USPTO), the USPTO will withdraw the application from issuance and issue an Office action under 35 U.S.C. 132 stating the applicable rejection, objection, or other requirement, with the reasons therefor.

As held in Blacklight Power, the USPTO's responsibility to issue a patent containing only patentable claims does not end with the issuance of a notice of allowance under 35 U.S.C. 151. See BlackLight Power, Inc. v. Rogan, 295 F.3d 1269, 1273 (Fed. Cir. 2002). Rather, if there is any substantial, reasonable ground within the knowledge or cognizance of the Director as to why an application should not issue, it is the USPTO's duty to refuse to issue the patent even if a notice of allowance has previously been issued for the application. See In re Drawbaugh, 9 App. D.C. 219, 240 (D.C. Cir 1896).

Moreover, the applicant continues to be engaged in the examination process after the mailing of the notice of allowance. 37 CFR 1.56 makes clear that the applicant has a duty to disclose information material to patentability as long as the application is pending before the USPTO (i.e., until a patent is granted or the application is abandoned). See 37 CFR 1.56(a) ("[t]he duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned"). 37 CFR 1.97 and 1.98 provide for the consideration of information submitted by the applicant after a notice of allowance has been mailed. See 37 CFR 1.97(d). In addition, 37 CFR 1.312 provides for the amendment of an application after a notice of allowance has been mailed. In fact, the request for examination procedures[3] permit the filing of a request for continued examination under 37 CFR 1.114 even after the issuance of a notice of allowance under 35 U.S.C. 151. See 37 CFR 1.114(a)(1).

As the examination process does not terminate with the mailing of the notice of allowance, the time consumed by continued examination requested by the applicant under section 132(b) does not terminate with the mailing of the notice of allowance. All the time the application is pending from the date of filing of the request for continued examination to the mailing of the notice of allowance through issuance of the patent is a consequence of the filing of the request for continued examination. Further action by the Office is pursuant to that request. Applicant has gotten further prosecution of the application without having to file a continuing application under 37 CFR 1.53(b).

All of the continued examination pursuant to the filing of the request by the applicant is properly excluded from the delay attributed to the Office. 35 U.S.C. 154(b)(1)(B)'s guarantee of a total application pendency of no more than three years provides for adjustment of the patent term for delay due to the Office's 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

[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.

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 May 27, 2009, and the patent issued by virtue of that request on April 26, 2011. Pursuant to 35 U.S.C. 154(b)(1)(B)(i), the period beginning on May 27, 2009 and ending on April 26, 2011 is not included in calculating Office delay.

CONCLUSION

Accordingly, the decision on application for patent term adjustment has been reconsidered and the request for additional patent term 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 09/22/11

TO SPE OF : ART UNIT 2167

SUBJECT : Request for Certificate of Correction for Appl. No.: 11396301 Patent No.: 7933890

CofC mailroom date: 09/13/11

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 Director's/SPE response to 571-273-3421

Note: **Should the changes in the claims be approved?**

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

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

- ☒ **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

JOHN COTTINGHAM
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

2167

SPE **Art Unit**

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JAN 12 2012
OFFICE OF PETITIONS

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

In re Patent No. 7,933,890
Issued: April 26, 2011
Application No. 11/396,301
Filed: March 31, 2006
Attorney Docket No. 16113-1583001

: FINAL AGENCY DECISION
: ON REQUEST TO INVOKE THE
:SUPERVISORY AUTHORITY
: OF THE DIRECTOR

This is a decision on the petition filed November 21, 2011, requesting that the Director review the Final Agency Decision on Request for Reconsideration of Decision on Application for Patent Term Adjustment ("Decision") mailed by the Office of Petitions on September 20, 2011.

The Decision maintains that the above-identified patent is entitled to one hundred sixty (127) days of patent term adjustment ("PTA"). Patentees request that the Director review the decision and modify the PTA calculation to two hundred fifty-four (254) days.

The decision of the Director of the Office of Petitions has been reviewed. However, because no error has been found in the decision, the petition under 37 CFR 1.181 is **DENIED**.

The patent term adjustment remains 127 days, as indicated in the final agency decision of September 20, 2011.

Andrew Hirshfeld
Associate Commissioner for Patent Examination Policy

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MAILED

APR 25 2011

OFFICE OF PETITIONS

CONTINENTAL TEVES, INC.
ONE CONTINENTAL DRIVE
AUBURN HILLLS MI 48326-1581

In re Application of	:	
Rudiger Mahlo et al.	:	
Application No. 11/396,446	:	ON PETITION
Filed: April 3, 2006	:	
Attorney Docket No. **AP11202**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 28, 2011, to revive the above-identified application.

The petition is hereby **DISMISSED**.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed December 31, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on April 1, 2009.

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

As to item (1)

The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). *See* MPEP 711.03(c)(III)(A)(2). Since the amendment submitted on February 28, 2011, does not *prima facie* place the application in condition for allowance, the reply required must be a Notice of Appeal (and appeal fee), RCE, or the filing of a continuing application under 37 CFR 1.53(b). A copy of the Advisory Action explaining why the amendment was not accepted is enclosed with this decision.

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

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

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

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

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

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

JoAnne Burke
Petitions Examiner
Office of Petitions

Enclosed: Copy of Advisory Action

Advisory Action Before the Filing of an Appeal Brief	Application No. 11/396,446	Applicant(s) MAHLO ET AL.
	Examiner Thomas J. Williams	Art Unit 3657

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

THE REPLY FILED 28 March 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 Continuation Sheet*. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: *1-7*.
   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: _____.

/Thomas J. Williams/
Primary Examiner, Art Unit 3657

Continuation of 3. NOTE: The proposed claims change the scope of the claimed invention and would require further consideration.

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

Mail Date: 08/05/2010

Applicant	: Chun-Chien Yu	: DECISION ON REQUEST FOR
Patent Number	: 7654971	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/396,468	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/04/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **957** 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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WILEY REIN LLP
1776 K. STREET N.W.
WASHINGTON DC 20006

MAILED
APR 11 2011
OFFICE OF PETITIONS

In re Patent No. 7,252,468	:	
Issue Date: August 7, 2007	:	
Application No. 11/396,600	:	NOTICE
Filed: April 4, 2006	:	
Attorney Docket No. **79592.0122B**	:	

This is a notice regarding your request filed February 28, 2011, for acceptance of a fee deficiency submission under 37 CFR 1.28.

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

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

It appears that the petition was not properly signed by a person having authority to prosecute in the above-identified patent. Therefore, the request can not be accepted at this time.

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.

Accordingly, the request cannot be accepted until it is signed by all inventors, an attorney /agent who is registered to practice before the U.S. Patent and Trademark Office, or the assignee of the entire interest. If the request is signed by an assignee, the assignee the assignee must comply with the requirements of 37 CFR 3.73(b).

Inquiries related to this communication should be directed to the undersigned at (571) 272-4584.

JoAnne Burke
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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WILEY REIN LLP
1776 K. STREET N.W.
WASHINGTON DC 20006

MAILED

AUG 22 2011

OFFICE OF PETITIONS

In re Patent No. 7,252,468	:	
Issue Date: August 7, 2007	:	
Application No. 11/396,600	:	NOTICE
Filed: April 4, 2006	:	
Attorney Docket No. **79592.0122B**	:	

This is a notice regarding your request filed August 15, 2011, for acceptance of a fee deficiency submission under 37 CFR 1.28.

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

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

There is no indication that the petition is signed by a registered patent attorney or patent agent of record. However, in accordance with 37 CFR 1.34, the signature of Floyd B. Chapman appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. If, Floyd B. Chapman desires to be acknowledged as the attorney or record in this file, the appropriate power of attorney documents must be submitted.

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-4584.

JoAnne Burke
Petitions Examiner
Office of Petitions

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OLSON & CEPURITIS, LTD.
20 NORTH WACKER DRIVE
36TH FLOOR
CHICAGO IL 60606

MAILED
AUG 20 2010
OFFICE OF PETITIONS

In re Application :
David A. Cheresh et al. :
Application No. 11/396,743 : DECISION ON APPLICATION
Filed: April 3, 2006 : FOR PATENT TERM ADJUSTMENT
Attorney Docket No. TSRI 835.2 DIV.1 :

This is in response to the APPLICATIQN FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. 1.705(b) filed April 13, 2010. Applicant requests that the determination of patent term adjustment be corrected from 430 days to 614 days.

The petition is **GRANTED**.

On January 20, 2010, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 430 days. The instant application for patent term adjustment was timely filed[1] on or before payment of the issue fee.

Applicants argue that a response was filed April 23, 2009 to a non-Final Office Action mailed January 26, 2009. In response thereof, however, a Notice of Non-Compliant Amendment (37 CFR 1.121) was mailed July 13, 2009. Applicant argues that the Notice mailed July 13, 2009 was sent erroneously and that in an Interview on July 24, 2009, the Examiner of record acknowledged that the Applicants had fully complied with the request for replacement drawings as set forth in the prior Office Action mailed January 26, 2009. Applicants argument has been confirmed by an Interview Summary dated July 24, 2009.

Applicants argue no delay under 37 C.F.R. 1.704(b)(7) due to delays by Applicants resulting from an allegedly Informal or Non-Responsive Amendment, and an entitlement to additional days of PTA pursuant to 37 CFR 1.702(a)(2) due to inaction by the PTO from August 24, 2009 (4 months after the April 23, 2009 response to office action filed by Applicant) until the mailing of the Notice of Allowance on January 20, 2010.

---

[1] PALM records indicate that the issue fee was paid on April 19, 2010.

Thus, applicants did not fail to engage in reasonable efforts to conclude prosecution of the application and the Office should not have assessed applicants a delay of ninety-two (92) days.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is six hundred fourteen (614) days.

The petition fee in the amount of $200.00, as set forth in 37 CFR 1.18(e), has been applied. No additional fees are required.

The Office has updated the PALM screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is six hundred fourteen (614) days. A copy of the updated PALM screen, showing the correct determination, is enclosed.

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

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

Anthony Knight
Director
Office of Petitions

Day : Thursday
Date: 8/19/2010

PALM INTRANET

Time: 13:21:24

PTA Calculations for Application: 11/396743			
Application Filing Date:	04/03/2006	PTO Delay (PTO):	522
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	92
Post-Issue Petitions:	0	Total PTA (days):	614
PTO Delay Adjustment:	184		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
44	08/19/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	184		
36	01/20/2010	MAIL NOTICE OF ALLOWANCE	57		30
35	01/19/2010	ISSUE REVISION COMPLETED			
34	01/19/2010	DOCUMENT VERIFICATION			
33	01/19/2010	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
32	01/19/2010	NOTICE OF ALLOWABILITY			
31	11/21/2009	DATE FORWARDED TO EXAMINER			
30	07/24/2009	RESPONSE AFTER NON-FINAL ACTION		92	24
29	07/24/2009	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
28	07/23/2009	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
27	07/13/2009	MAIL NOTICE OF INFORMAL OR NON-RESPONSIVE AMENDMENT			
26	04/23/2009	NEW OR ADDITIONAL DRAWING FILED			
25	05/18/2009	DATE FORWARDED TO EXAMINER			
24.1	04/23/2009	INFORMAL OR NON-RESPONSIVE AMENDMENT AFTER EXAMINER ACTION			
24	04/23/2009	RESPONSE AFTER NON-FINAL ACTION			
23	01/26/2009	MAIL NON-FINAL REJECTION			
22	01/21/2009	NON-FINAL REJECTION			
16	12/23/2008	DATE FORWARDED TO EXAMINER			
15	12/05/2008	RESPONSE TO ELECTION / RESTRICTION FILED			
14	12/05/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
13	09/10/2008	MAIL RESTRICTION REQUIREMENT	465		-1
12	06/09/2008	REQUIREMENT FOR RESTRICTION / ELECTION			

11	02/21/2008	PRELIMINARY AMENDMENT			
10	11/07/2006	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
9	06/14/2006	CASE DOCKETED TO EXAMINER IN GAU			
8	05/15/2006	APPLICATION RETURN FROM OIPE			
7	05/15/2006	APPLICATION IS NOW COMPLETE			
6	05/15/2006	APPLICATION RETURN TO OIPE			
5	05/15/2006	APPLICATION DISPATCHED FROM OIPE			
4	05/15/2006	APPLICATION IS NOW COMPLETE			
3	05/04/2006	CLEARED BY OIPE CSR			
2	04/29/2006	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	04/03/2006	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
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PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7,147,548	2006-12-12	11/396,765	2006-04-03	042605.00001

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	/SPL/	Date (YYYY-MM-DD)	2011-06-20
Name	Seann P. Lahey	Registration Number	51910

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

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

In re Patent No. 7147548
Issue Date: December 12,2006
Application No. 11396765
Filed: April 3,2006
Attorney Docket No. 042605.00001

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

This is a decision on the electronic petition, filed June 20,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of June 20,2011 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

OPAP
OCT 0 3 2011
PATENT & 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

In re Patent No. 7147548
Issue Date: December 12,2006
Application No. 11396765
Filed: April 3,2006
Attorney Docket No. 042605.00001

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

This is a decision on the electronic petition, filed June 20,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of June 20,2011 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 9/29/11

TO SPE OF : ART UNIT: 1624

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/396,888 Patent No. 7,534,882

CofC mailroom date 9/19/11

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

Ernest C. White, LIE

Certificates of Correction Branch

703-756-1814 _____

Thank You For Your Assistance

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

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

Comments: _____

/Joseph K. McKane/ — **SPE**

1626 — **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 04/11/11

TO SPE OF : ART UNIT: 1612 Attn: KRASS FREDERICK F (SPE)

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/396923 Patent No.: 7645748

C of C Mailroom date: 03/29/11

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

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

Thank You For Your Assistance

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

xApproved	**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**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/26/10

TO SPE OF : ART UNIT 1627 Padmanabhan Sreenivasan (Spe)

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/396936 Patent No.: 7723328

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:

(1) The term "cycloalkyl" does not appear in claim 1.

(2) There are only 8 claims.

Padmanabhan 1627
SPE **Art Unit**

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

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KENNETH E. HORTON
KIRTON & MCCONKLE
60 EAST SOUTH TEMPLE
SUITE 1800
SALTLAKE CITY UT 84111

MAILED
SEP 20 2011
OFFICE OF PETITIONS

In re Application of	:	
NAKADA, et al	:	
Application No. 11/397,050	:	DECISION ON PETITION
Filed: April 3, 2006	:	
Docket No. 12054-10	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, February 24, 2011, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on May 25, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $810; and (3) and 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. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

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

This application is being referred to Technology Center AU 3621 for appropriate action by the Examiner in the normal course of business.

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

cc: SETH H. OSTROW
555 5TH AVENUE
NEW YORK, NY 10017

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

PILLSBURY WINTHROP SHAW PITTMAN, LLP
P.O. Box 10500 **(For Patent Owner)**
MCLEAN VA 22102

PILLSBURY WINTHROP SHAW PITTMAN, LLP
P.O. Box 10500 **(For Patent Owner)**
MCLEAN VA 22102

MAILED
JUL 20 2011
OFFICE OF PETITIONS

In re Reissue Application of: Paul Artemi :
Application No. 11/397,053 :
Filed: April 4, 2006 :
For: U.S. Patent No. 5,584,455 :
: **ON PETITION**
In re Paul Artemi :
Reexamination Proceeding :
Control No. 90/006,286 :
Filed: May 10, 2002 :
For: U.S. Patent No. 5,584,455 :

This is a decision on the petition, filed July 7, 2011, which is being treated as a petition to expunge the communication filed by a third party on June 30, 2011. This is also a decision on the petition under 37 CFR 1.182 by a third party, filed June 30, 2011, to consider the concurrently filed protest submitted pursuant to 37 CFR 1.291.

The petition under 37 CFR 1.59(b) is **GRANTED.**

The petition under 37 CFR 1.182 is **DISMISSED.**

Specifically, Petitioner requests that the submission, filed on June 30, 2011, be expunged as it has been submitted after the mailing of the Notice of Allowance and without consent of applicant.

37 CFR 1.291 states:

> (a) A protest may be filed by a member of the public against a pending application, and it will be matched with the application file if it adequately identifies the patent application. A

protest submitted within the time frame of paragraph (b) of this section, which is not matched in a timely manner to permit review by the examiner during prosecution, due to inadequate identification, may not be entered and may be returned to the protestor where practical, or, if return is not practical, discarded.

(b) The protest will be entered into the record of the application if, in addition to complying with paragraph (c) of this section, the protest has been served upon the applicant in accordance with § 1.248, or filed with the Office in duplicate in the event service is not possible; and, except for paragraph (b)(1) of this section, the protest was filed prior to the date the application was published under § 1.211, or a notice of allowance under §1.311 was mailed, whichever occurs first:

(1) If a protest is accompanied by the written consent of the applicant, the protest will be considered if the protest is matched with the application in time to permit review during prosecution.

(2) A statement must accompany a protest that it is the first protest submitted in the application by the real party in interest who is submitting the protest; or the protest must comply with paragraph (c)(5) of this section. This section does not apply to the first protest filed in an application.

(c) In addition to compliance with paragraphs (a) and (b) of this section, a protest must include.

(1) A listing of the patents, publication, or other information relied upon;

(2) A concise explanation of the relevance of each item listed pursuant to paragraph (c)(1) of this section;

(3) A copy of each listed patent, publication, or other item of information in written form, or at least the pertinent portions thereof;

(4) An English language translation of all the necessary and pertinent parts of any non-English language patent, publication, or other item of information relied upon; and

(5) If it is a second or subsequent protest by the same party in interest, an explanation as to why the issue(s) raised in the second or subsequent protest are significantly different than those raised earlier and why the significantly different issue(s) were not presented earlier, and a processing fee under § 1.17(i) must be submitted.

(d) A member of the public filing a protest in an application under this section will not receive any communication from the Office relating to the protest, other than the return of a self-addressed postcard which the member of the public may include with the protest in order to receive an acknowledgement by the Office that the protest has been received. The limited involvement of the member of the public filing a protest pursuant to this section ends with the filing of the protest, and no further submission on behalf of the protestor will be considered, unless the submission is made pursuant to paragraph (c)(5) of this section.

(e) Where a protest raising inequitable conduct issues satisfies the provisions of this section for entry, it will be entered into the application file, generally without comment on the inequitable conduct issues raised in it.

(f) In the absence of a request by the Office, an applicant has no duty to, and need not, reply to a protest.

(g) Protests that fail to comply with paragraphs (b) or (c) of this section may not be entered, and if not entered, will be returned to the protestor, or discarded, at the option of the Office.

MPEP 1901 states:

> The degree of participation allowed a protestor is solely within the discretion of the Director of the USPTO.
>
> 37 CFR 1.291 gives recognition to the value of written protests in bringing information to the attention of the Office and in avoiding the issuance of invalid patents. With the exception of a protest accompanied by a written consent of the applicant, all protests must be submitted prior to the publication of the application or the mailing of a notice of allowance, whichever occurs first. No protest or other form of preissuance opposition to the grant of a patent may be initiated after publication of the application without the applicant's express written consent as specified by 35 U.S.C. 122(c).
>
> A party obtaining knowledge of an application pending in the Office may file a protest against the application and may therein call attention to any facts within protestor's knowledge which, in the protestor's opinion, would make the grant of a patent on the application improper. The party should include with the protest whatever information the party is aware of that would facilitate identification of the application and matching the protest with the application. If there is insufficient information to identify the application, the protest may not be matched at all or not timely matched with the intended application to permit review by the examiner during prosecution of the application, in which case, the protest may not be entered and may be returned to the protestor where practical. If return is not practical, the protest will be discarded. 37 CFR 1.291(a). See MPEP § 1901.03. A protestor does not, by the mere filing of a protest, obtain the "right" to argue the protest before the Office. Active participation by a protestor ends with the filing of the protest, and no further submission on behalf of the protestor will be considered, unless the submission is made pursuant to 37 CFR 1.291(c)(5). See 37 CFR 1.291(d). The USPTO will acknowledge the receipt of a protest in an original or a reissue application file, only if a self-addressed postcard is included with the protest (see MPEP § 1901.05). The question of whether or not a patent will issue is a matter between the applicant and the Office acting on behalf of the public.

MPEP 1901.04 states:

> Except where a protest is accompanied by the written consent of the applicant as provided in 37 CFR 1.291(b)(1), a protest under 37 CFR 1.291(a)must be submitted prior to the date the application was published under 37 CFR 1.211 or the mailing of a notice of allowance under 37 CFR 1.311, whichever occurs first, and the application must be pending when the protest and application file are brought before the examiner in order to be ensured of consideration.

Here, the protest was filed subsequent to the mailing of a Notice of Allowance on May 24, 2011 without the consent of applicant.

Given the lack of compliance with the regulation (*e.g.*, 37 CFR 1.291) governing third party submissions of information in a published application or allowed application, the documents submitted by the third party on June 30, 2011 cannot be permitted to remain in the file. The documents filed by the third party on June 30, 2011 are being closed to public inspection which is the Image File Wrapper (IFW) equivalent of expungement from a paper file.

With respect to the petition under 37 CFR 1.182 requesting consideration of the protest, petitioner's contention of only becoming aware of issuance of this merged reissue reexamination proceeding upon receipt of a letter from reissue applicant's attorney is unavailing as 37 CFR 1.291(b) precludes the filing of a protest after mailing of the Notice of Allowance unless accompanied by written consent of the applicant.

The required petition fee of $200 under 37 CFR 1.17(g) is being charged to petitioner's Deposit Account No. 03-3975.

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

David Bucci
Petitions Examiner
Office of Petitions

Cc: Ostrolenk Faber LLP
1180 Avenue of the Americas
New York, NY 10036-8403

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UNISYS CORPORATION
Office of the General Counsel
801 Lakeview Drive, Suite 100
MailStop: 2NW
BLUE BELL PA 19422

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OFFICE OF PETITIONS

In re Application of
Mazzagatti
Application No. 11/397,097
Filed: April 4, 2006
Atty. Dkt. No.: TN469

: DECISION ON PETITION

This decision is in response to the petition under 37 CFR 1.137(b), filed January 18, 2012.

The petition is **GRANTED**.

This application became abandoned November 9, 2008 for failure to timely submit a proper reply in response to the non-final Office action mailed August 8, 2008. The non-final Office action set a three month shortened statutory period of time for reply. Notice of Abandonment was mailed August 26, 2009.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by: (1) the required reply to the outstanding Office action or notice, unless previously filed; (2) the petition fee as set forth in 37 C.F.R. § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee set forth in 37 C.F.R. § 1.20(d)) required pursuant to 37 C.F.R. § 1.137(c).

The above-identified application has been carefully reviewed and found in compliance with the requirements set forth above.

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

This application is being forwarded to Group Art Unit 2419 for further processing.

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

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

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MORRISS OBRYANT COMPAGNI, P.C.
734 EAST 200 SOUTH
SALT LAKE CITY UT 84102

MAILED

AUG 01 2011

OFFICE OF PETITIONS

In re Application of	:	
Christopher A. Wickliffe	:	
Application No. 11/397,234	:	DECISION ON PETITION
Filed: April 23, 2006	:	TO WITHDRAW
Attorney Docket No. 2946.WICK NP	:	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 6, 2011.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. 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 Frank W. Compagni, on behalf of all attorneys/agents associated with customer number 26986. All attorneys/agents associated with customer number 26986 have been withdrawn.

The correspondence address has been changed and is copied below.

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

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Christopher A. Wickliffe
1320 16th Street
Ogden, UT 84404

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/397,234	04/03/2006	Christopher A. Wickliffe	2946.WICK.NP

CONFIRMATION NO. 5872

POWER OF ATTORNEY NOTICE

26986
MORRISS OBRYANT COMPAGNI, P.C.
734 EAST 200 SOUTH
SALT LAKE CITY, UT 84102

OC000000048975214

Date Mailed: 07/26/2011

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/06/2011.

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

/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

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

Patent No. : 7680549 B2
Application No.: 11/397319
Inventor(s) : Kadir Kavaklioglu et al.
Issued : 03/16/2010
Attorney Docket No.: P32.12-0049

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 patent is correct as issued and printed. Claims 20, 21 and 29 of the patent were amended by Examiners Amendment in the Notice of Allowance mailed 11/6/2009. The request for correction does not take into account these amendments.

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

Tasneem Siddiqui
For Mary Diggs (Supervisor)
Decisions & Certificates of Correction Branch
(703) 756-1593 or (703) 756-1814
Date: 07/12/2011

Address: Judson K. Champlin
WESTMAN, CHAMPLIN & KELLY, P.A.
900 Second Avenue South, Suite 1400
Minneapolis, Minnesota 55402-3244

ts

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : **06/30/11**

TO SPE OF : ART UNIT: **2121 Attn: DECADY ALBERT (SPE)**

SUBJECT : Request for Certificate of Correction for Appl. No.: **11/397319** Patent No.: **7680549**

CofC mailroom date: 11/08/2010

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Note: **Please check Claims 20, 21 & 29**

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:

The patent is correct as issued and printed. Claims 20, 21 and 29 of the patent were amended by Examiners Amendment in the Notice of Allowance mailed 11/6/2009. The request for correction does not take into account these amendments.

/ALBERT DECADY/ — **SPE**

2121 — **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : **06/30/11**

TO SPE OF : ART UNIT: **2121 Attn: DECADY ALBERT (SPE)**

SUBJECT : Request for Certificate of Correction for Appl. No.: **11/397319** Patent No.: **7680549**

CofC mailroom date: 11/08/2010

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Note: **Please check Claims 20, 21 & 29**

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:

The patent is correct as issued and printed. Claims 20, 21 and 29 of the patent were amended by Examiners Amendment in the Notice of Allowance mailed 11/6/2009. The request for correction does not take into account these amendments.

/ALBERT DECADY/ — **SPE**

2121 — **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

PETER K. TRZYNA, ESQ.
P O BOX 7131
CHICAGO IL 60680

MAILED

AUG 16 2010

OFFICE OF PETITIONS

In re Application of	:	
RYAN, Raymond B. et al.	:	
Application No. 11/397,348	:	DECISION ON PETITION
Filed: April 03, 2006	:	TO WITHDRAW
Attorney Docket No. **Ryan-P1-06**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 30, 2010.

The request is **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 Peter K. Trzyna on behalf of all attorneys of record who are associated with customer No. 28710. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Raymond B. Ryan at the address indicated below.

There is an outstanding Office action mailed June 08, 2010 that requires a reply from the applicant.

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

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **RAYMOND B. RYAN**
30 OLD KINGS HIGHWAY SOUTH
SUITE 250
DARIEN, CT 06820

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

FEB 28 2011

OFFICE OF PETITIONS

MARGARET ANDERSON
106 E. 6TH STREET, SUITE 900
AUSTIN, TX 78701

In re Application of

Royce A. Levien et al
Application No. 11/397,357
Filed: April 3, 2006
Attorney Docket No.: QQ1-0039US

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

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

WIESNER & ASSOCIATES
366 CAMBRIDGE AVENUE
PALO ALTO CA 94306

MAILED
JAN 23 2012
OFFICE OF PETITIONS

In re Application of	:	
Kumar Gajjar et al.	:	
Application No. 11/397,487	:	DECISION ON PETITION
Filed: April 3, 2006	:	
Attorney Docket No. 00121-002601000	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 18, 2012, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue fee on or before November 1, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed July 30, 2010. Accordingly, the date of abandonment of this application is November 2, 2010. A Notice of Abandonment was mailed on November 12, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,510, (2) the petition fee of $1,860, and (3) a proper statement of unintentional delay. Accordingly, the issue fee is accepted as being unintentionally delayed.

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

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

/Kimberly A. Inabinet/

Kimberly A. Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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CHRISTOPHER & WEISBERG, P.A.
200 EAST LAS OLAS BOULEVARD
SUITE 2040
FORT LAUDERDALE FL 33301

MAILED

OCT 03 2011

OFFICE OF PETITIONS

In re Application of	:	
Krishna, et al.	:	
Application No. 11/397,756	:	DECISION
Filed/Deposited: 4 April 2006	:	
Attorney Docket No. 1689-11CIP2	:	

This is a decision on the petition filed on 29 August, 2011, for revival of an application abandoned due to unintentional delay under 37 C.F.R. §1.137(b).

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

As to the Allegations
of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee.

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the non-final Office action mailed on 28 December, 2010, with reply due absent extension of time on or before 28 March, 2011.

The application went abandoned by operation of law after midnight 28 March, 2011.

The Office mailed the Notice of Abandonment 5 August, 2011.

On 29 August, 2011, Petitioner filed a petition (with fee) pursuant to 37 C.F.R. §1.137(b) with a reply in the form of a request for continued examination (RCE) and fee and a submission under the provisions of 37 C.F.R. §1.114, with a statement of unintentional delay.

Petitioners' attentions always are directed to the guidance in the Commentary at MPEP §711.03(c) as to the showing regarding unintentional delay and a petition pursuant to 37 C.F.R. §1.137(b).

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

STATUTES, REGULATIONS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994). And the regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application.[2],[3]

Moreover, the Office has set forth in the Commentary at MPEP §711.03(c)(I) the showing and timeliness requirements for a proper showing for relief under 37 C.F.R. §1.181 in these matters.

---

[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §11.18, formerly §10.18, to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

[2] See: Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. at 53158-59 (October 10, 1997), 1203 Off. Gaz. Pat. Office at 86-87 (October 21, 1997).

[3] The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition. (Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.) Delays in responding properly raise the question whether delays are unavoidable. Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) And the Petitioner must be diligent in attending to the matter. Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care. (By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.))

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.[4]

As to Allegations of
Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee.

It appears that the requirements under the rule have been satisfied.

CONCLUSION

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

The instant application is released to the Technology Center/AU 3733 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 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.

---

[4] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however , that all practice before the Office is in writing (see: 37 C.F.R. §1.2[5]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

[5] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attdance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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.
11/397,815	04/04/2006	Rainer W. Lienhart	HMM-004-1	3799

27833 7590 08/13/2010
TECHNOLOGY, PATENTS AND LICENSING, INC.
2003 South EASTON ROAD
SUITE 208
DOYLESTOWN, PA 18901

EXAMINER
CHAWAN, SHEELA C

ART UNIT	PAPER NUMBER
2624	

NOTIFICATION DATE	DELIVERY MODE
08/13/2010	ELECTRONIC

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

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

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

aspicer@techpats.com
phespell@techpats.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

TECHNOLOGY, PATENTS AND LICENSING, INC.
2003 South EASTON ROAD
SUITE 208
DOYLESTOWN, PA 18901

MAIL

AUG 13 2010

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
Lienhart, Rainer W. *et al* :
Serial No.: 11/397,815 :
Filed: April 4, 2006 : DECISION ON PETITION
For: **VIDEO ENTITY RECOGNITION IN COMPRESSED DIGITAL VIDEO STREAMS** : *ACCEPTANCE OF COLOR DRAWINGS*

This is a decision on the petition under 37 CFR §1.184(a)(2), filed April 4, 2006 requesting acceptance color drawings.

The petition requests that the color drawings identified in Figures 18A, 18B, 22A and 22B be accepted in lieu of black and white drawings.

A grantable petition under 37 C.F.R. §1.84(a)(2) must be accompanied by a fee set forth under 37 C.F.R. § 1.17(h), 3 (three) sets of the color drawings in question, and the specification must contain, or be amended to contain, the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings:

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

The petition is **GRANTED**.

Kenneth Weider
Special Program Examiner
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

EDWARD LANGER
c/o SHIBOLETH YISRAELI ROBERTS ZISMAN & CO.
1 PENN PLAZA-SUITE 2527
NEW YORK NY 10119

MAILED

JAN 18 2011

OFFICE OF PETITIONS

In re Application of	:	
SHAI AMISAR ET AL.	:	
Application No. 11/397,909	:	DECISION ON PETITION
Filed: April 5, 2006	:	
Attorney Docket No. 2077	:	

This is a decision on the petition, filed June 14, 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 filed within two (2) months from the mail date of this decision. *Note* 37 CFR 1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 CFR 1.181 to Withdraw the Holding of Abandonment."

This application was held abandoned for failure to reply to the Restriction Requirement, mailed October 23, 2009, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). A Notice of Abandonment was mailed on May 11, 2010.

Petitioner asserts that the Notice dated October 23, 2009, was not received.

DISCUSSION OF PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

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.

Petitioner has submitted a copy of the law firms docket history of the subject application and a statement from "Ronen Radomski" the second inventor indicating and trying to establish that the Office action was never received. However, the Office action was sent to the first name inventor "Shai Amisar" not the law firm, or Ronen Radomski. Therefore, the evidence that was submitted with the instant petition is not acceptable. Accordingly, since Shai Amisar 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 showing non receipt of the Office action the petition to withdraw the holding of abandonment is **dismissed**.

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

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

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

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

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

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

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

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
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EDWARD LANGER
c/o SHIBOLETH YISRAELI ROBERTS ZISMAN & CO.
1 PENN PLAZA-SUITE 2527
NEW YORK NY 10119

MAILED
MAY 03 2011
OFFICE OF PETITIONS

In re Application of :
SHAI AMISAR ET AL. :
Application No. 11/397,909 : DECISION ON PETITION
Filed: April 5, 2006 :
Attorney Docket No. 2077 :

This is a decision on the renewed petition, filed January 27, 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 reply to the Restriction Requirement, mailed October 23, 2009, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). A Notice of Abandonment was mailed on May 11, 2010.

Petitioner asserts that the Notice dated October 23, 2009, was not received.

DISCUSSION OF PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

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 Notice was not in fact received. Petitioner has made a sufficient showing that Restriction Requirement, mailed October 23, 2009, was not received at the address it was mailed to.

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 3632 for **re-mailing** the Restriction Requirement of October 23, 2009. The period for reply will run from the mailing date of the Office action.

/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
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BLANK ROME LLP
WATERGATE
600 NEW HAMPSHIRE AVENUE, N.W.
WASHINGTON DC 20037

MAILED
OCT 14 2010
OFFICE OF PETITIONS

In re Application of	:	
Pettit, John W.	:	
Application No. 11/397,933	:	ON PETITION
Filed: April 5, 2006	:	
Attorney Docket No. 000049-00124	:	

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 Response to Restriction Requirement, including an Election, (2) the petition fee of$810.00, and (3) a proper statement of unintentional delay.

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

This matter is being referred to Technology Center AU 2883 for further examination on the merits.

Liana Walsh
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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Mail Date: 08/03/2010

Applicant	: Jean-Philippe Cousin	: DECISION ON REQUEST FOR
Patent Number	: 7653788	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/397,945	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/04/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **595** 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 : October 7, 2010

TO SPE OF : ART UNIT 2464
SUBJECT : Request for Certificate of Correction for Appl. No/11/397949/7656897

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.

Deleted:

Comments: OK TO ENTER /G.M/ 10/07/2010

/Ricky Ngo/

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/397,977	04/06/2006	Zarko Svatovic		6078

7590 10/24/2011

ZARKO SVATOVIC
250 Mercer Street
NYC, NY 10012

EXAMINER
MENDIRATTA, VISHU K

ART UNIT	PAPER NUMBER
3711	

MAIL DATE	DELIVERY MODE
10/24/2011	PAPER

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

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

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ZARKO SVATOVIC
250 Mercer Street
NYC NY 10012

In re Application of:	:::	
SVATOVIC, ZARKO	:	
Serial No. 11/397,977	:	
Filed: April 6, 2006	::	DECISION ON PETITION
Attorney Docket No.: n/a		
Title: CHESSQUIRE OR CHESS100 SQUARES		

This is a decision on the petition filed October 7, 2011 requesting withdrawal of the non-final Office action of September 13, 2011 and issuance of Notice of Allowance because the Board of Appeals has reversed the examiner's final rejection. This petition is considered as pursuant to 37 CFR 1.181, and no fee is required.

The petition is **DENIED.**

The relevant record shows that:

1) The applicant filed an appeal brief on October 16, 2008 appealing the examiner's final rejection of claim 6 to the Board of Patent Appeals and Interferences (hereinafter referred as the Board).
2) On February 10, 2009, the examiner promulgated an Examiner's Answer.
3) On June 6, 2011, the Board reversed the examiner's rejection of claim 6.
4) On September 13, 2011, the examiner re-opened prosecution. However, the Director's signature was inadvertently omitted in the Office action.
5) On October 7, 2011, petitioner filed the present petition, arguing that the non-final Office action was not signed by a TC 3700 Director under 37 CFR § 1.198. Petitioner requests that the rejection of the claims in the non-final Office action of September 13, 2011 be withdrawn and the pending claim 6 be allowed.
6) On October 12, 2011, a supplemental Office action was mailed with proper TC Director's approval under 37 CFR §1.114, §1.198 or § 41.50. The examiner rejected the only

independent claim 6 under 35 USC §101 as directed to non-statutory subject matter. The rejection is reproduced in the below[1].

Analysis and Discussion

In the petition, petitioner argues that the examiner's new grounds of rejection based on 35 USC § 101 is improper because the BPAI has reversed the examiner's rejection in the decision of June 6, 2011. Petitioner further argues that the Bilski v. Kappos Supreme Court decision does not apply in this case. Petitioner also asserts that the precedent does not provide any consequential new bearing on the case. This line of arguments is not persuasive because the examiner is not prohibited from considering additional legal grounds for the rejection of claim 6. The examiner is not prohibited from issuing a new rejection of claim 6 with a different rationale and a different statutory basis. After a careful review of the Board decision, the examiner's reopening of prosecution as stated in the non-final Office action of September 13, 2011 is deemed proper in accordance with 37 CFR § 41.50 for the following reasons. It must be noted that, in the Examiner Answer of February 10, 2009, the examiner did not reject claim 6 with the interpretation of 35 USC § 101 as stated in the Office action mailed on September 13, 2011 and remailed on October 12, 2011. The new issue presented by the new ground of the rejection clearly was not present in the earlier appeal nor was it adjudicated by the Board. Under the circumstances, it is proper for the TC Director to authorize the primary examiner to re-open prosecution for the purposes of entering the new ground of rejection in accordance MPEP § 1214.04 and 37 CFR §1.198. However, the delay in applying the new ground of rejection is sincerely regretted. Any past delay may be remedied by an adjustment of patent terms if the application is finally found allowable.

With regard to the request for issuance of a Notice of Allowance, a TC Director can not compel an examiner to ignore patent statutes and direct the examiner to allow an application. If petitioner believes that the examiner has erred in his judgment in the non-final Office action of September 13, 2011, a proper course of action would be to file an appeal brief to have the examiner's rejection reversed. The applicant always has the right to appeal the examiner's patentability determination to the Board if the applicant still disagrees with the stated position of the examiner. Therefore, the requested relief for issuance of a Notice of Allowance can not be granted.

[1] Claim 6 does not require the method be implemented by a particular machine and the claims do not require the method to particularly transform a particular article. The method as claimed involves movement of game pieces to merely change their locations on a game board surface based on hypothetical instructions and abstract ideas. Claimed method steps are abstract ideas because they simply instruct how business should be conducted. They constitute rules that may be applied for moving game pieces on a game board selected from infinite number of possible hypothetical ways that can be imagined to move game pieces. In playing a board game the steps are performed by individual human beings and not by a machine. In playing a board game the steps do not demonstrate transformation of a particular article, in that the game pieces remain as game pieces and the game surface remains a game surface. In playing a board game there is no concrete (repeatable) result or tangible (real world) result. Applicant's claimed method, while arguably reciting a number of physical steps of moving game pieces, is viewed here as an attempt to claim a set of abstract ideas/rules for playing a board game. Since the claimed method requires no machine implementation, requires no transformation of a particular article and is seen as an attempt to receive patent protection for an abstract idea in the form of a new set of rules, the examiner takes the position that the claimed method is not patent eligible.

Conclusion

For the foregoing reasons, the relief requested by the petitioner will not be granted. In particular, the non-final Office action with a TC Director's authorization of re-opening of prosecution mailed on September 13, 2011 and remailed on October 12, 2011 is proper in accordance with MPEP § 1214.04 and 37 CFR § 1.198. Petitioner is reminded that the mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings.

The application is being forwarded to the examiner via the Supervisory Patent Examiner of Art Unit 3711 awaiting a response to the outstanding Office action mailed on September 13, 2011. Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision, 37 CFR 1.181(f). No extension of time under 37 CFR 1.136(a) is permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181" and directed to the Office of the Deputy Commissioner for Patent Examination Policy at Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450. See MPEP 1002.02(b).

The petition is DENIED.

Angela D. Sykes, Director
Technology Center 3700

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VMWARE INC
DARRYL SMITH
3401 HILLVIEW AVE
PALO ALTO CA 94304

MAILED
DEC 23 2011
OFFICE OF PETITIONS

In re
John, et al.
Application No. 11/398,028
Filed: April 4, 2006
Patent No. 8,024,779
Issued: September 20, 2011

DECISION

This is in response to the "CHANGE OF ENTITY STATUS PURSUANT TO 37 C.F.R. 1.27(g)(2)", filed December 12, 2011.

The change of status to large entity has been entered.

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

Cliff

Cliff Congo
Petitions Attorney
Office of Petitions

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McDermott Will & Emery LLP
11682 El Camino Real, Suite 400
San Diego, CA 92130

Mail Date: 08/11/2010

Applicant	: Tadeusz Jarosinski	: DECISION ON REQUEST FOR
Patent Number	: 7661009	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/398,061	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/04/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **544** 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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CARLSON, GASKEY & OLDS, P.C.
400 WEST MAPLE ROAD
SUITE 350
BIRMINGHAM, MI 48009

Mail Date: 09/14/2010

Applicant	: Detlef Heyn	: DECISION ON REQUEST FOR
Patent Number	: 7654039	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/398,084	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/05/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **653** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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Paper No.

LAWRENCE R. OREMLAND, P.C.
5055 E. BROADWAY BLVD.
SUITE C-214
TUCSON AZ 85711

MAILED
AUG 22 2011
OFFICE OF PETITIONS

In re Application of	:	
Newhall et al.	:	DECISION ON APPLICATION
Application No. 11/398,180	:	FOR
Filed: April 5, 2006	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 6169.103US	:	
Title: LENS COVER FOR AN OPTICAL	:	
SIGHT	:	

This decision is in response to the "Request for Recalculation of Patent Term Adjustment," filed on August 5, 2011, which is being treated as a petition pursuant to 37 C.F.R. § 1.705(b). Applicants request that the determination of patent term adjustment be increased by two hundred and seventy-nine (279) days to three hundred and twenty-two (322) days.

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

Applicants are given **TWO MONTHS** from the mail date of this decision to respond. No extension of time will be granted under 37 C.F.R. § 1.136.

On May 5, 2011, the Office mailed a "Determination of Patent Term Adjustment under 35 U.S.C. 154 (b)," which indicated that the Patent Term Adjustment to date was 43 days. The present request for reconsideration, filed on August 5, 2011, was timely filed as it was submitted concurrently with the submission of the issue fee on April 12, 2011. See § 1.705(b).

The record supports a conclusion that any patent issuing from this application is not subject to a terminal disclaimer.

Applicants have not disputed either the 322 days of examination delay or the 279 days of applicant delay. Applicants dispute

the subtraction of 279 days of applicant delay from the 322 days of examination delay to arrive at 43 days of patent term adjustment to date. More specifically, Applicants assert that applicant delay "should only be applied against the part B guarantee" and not "the part A guarantee."[1]

Applicants' argument has been considered, and has not been deemed to be persuasive.

The aforementioned "part A guarantee" is contained within 35 U.S.C. § 154(b)(1). 35 U.S.C. § 154(b)(1)(A)(i) requires the Office to "provide at least one of the notifications under section 132 of this title or a notice of allowance under section 151 of this title not later than 14 months after the date on which an application was filed under section 111(a) of this title; or the date on which an international application fulfilled the requirements of section 371 of this title." This application was filed on April 5, 2006, and a non-final Office action was mailed 14 months and 322 days later, resulting in 322 days of examination delay, pursuant to 35 U.S.C. § 154(b)(1)(A)(i).

Applicants will note that 35 U.S.C. § 154(b)(2)(C)(i) sets forth that "[t]he period of adjustment of the term of a patent under paragraph (1) shall be reduced by a period equal to the period of time during which the applicant failed to engage in reasonable efforts to conclude prosecution of the application." As such, the Office is required to reduce the aforementioned 322 day period by the 279 days which applicant failed to engage in reasonable efforts to conclude prosecution of the application.

The $200.00 petition fee set forth in 37 C.F.R. § 1.18(e) will be charged to Deposit Account No. 50-1905, as authorized on the sixth page of this petition. No additional fees are required.

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

Applicants are reminded that any delays by the Office pursuant to 37 C.F.R. §§ 1.702(a)(4) and 1.702(b) and any applicant delays under 37 C.F.R. § 1.704(c)(10) will be calculated at the

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[1] Petition, page 3.

time of the issuance of the patent and Applicants will be notified of the revised patent term adjustment to be indicated on the patent in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

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

Telephone inquiries regarding this decision should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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FISH & ASSOCIATES, PC
ROBERT D. FISH
2603 MAIN STREET
SUITE 1000
IRVINE, CA 92614-6232

MAILED

AUG 3 1 2010

OFFICE OF PETITIONS

In re Application of :
Reza Sadri, et al. :
Application No. 11/398,199 : ON PETITION
Filed: August 11, 2006 :
Attorney Docket No.: 101944.0001US2 :

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

The petition is **GRANTED**.

The application became abandoned for a failure to reply in a timely manner to a non-final Office action mailed March 14, 2008. A Notice of Abandonment was mailed on October 7, 2008. On June 21, 2010, the present petition was filed, including a Request for Continued Examination (RCE) under 37 CFR 1.114. The filing of a RCE is not permissible unless prosecution in the application is closed. Accordingly, the improper RCE will not be accepted and the RCE filing fee will be credited to counsel's deposit account.

Nonetheless, the petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the amendment; (2) the petition fee of $8100; and (3) an adequate statement of unintentional delay.

The application is being referred to Technology Center AU 2167 for consideration of the amendment filed June 21, 2010.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/398,237	04/05/2006	Mark E. Addis	085.10712-US-AA(05-146-2)	8019

52237 7590 12/13/2011
BACHMAN & LAPOINTE, P.C.
c/o CPA Global
P.O. Box 52050
Minneapolis, MN 55402

EXAMINER
PATEL, VISHAL A

ART UNIT	PAPER NUMBER
3674	

MAIL DATE	DELIVERY MODE
12/13/2011	PAPER

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

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

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DEC 13 2011

BACHMAN & LAPOINTE, P.C.
c/o CPA Global
P.O. Box 52050
Minneapolis, MN 55402

In re Application of	:	
Mark E. Addis	:	
Application No. 11/398,237	:	DECISION ON PETITION
Filed: April 05, 2006	:	REGARDING REQUEST TO
Attorney Docket No.: 085.10712-US-AA(05-146-2)	:	ENTER THE REPLY BRIEF
For: COOLING ARRANGEMENT FOR	:	UNDER 37 CFR 1.181
BRUSH SEAL	:	

This is in response to applicants' petition under 37 CFR 1.181 filed March 11, 2010 requesting that the reply brief filed November 13, 2009 be entered by the examiner.

The petition is **DISMISSED AS MOOT**.

A review of the file reveals that the reply brief in question was considered by the examiner on September 21, 2011 and an annotated copy of the first page of the brief noting its entry was included with the Reply Brief Noted letter mailed on September 21, 2011.

The record further reveals that the application was forward to the Board of Patent Appeals and Interferences on September 29, 2011.

In view of the above, applicants' petition is moot and is hereby dismissed.

Any questions regarding this decision should be directed to Supervisory Patent Examiner Shane Bomar at (571) 272-7026.

Dave Talbott, Director
Technology Center 3600
(571) 272-5150
Facsimile No.: (571) 273-8300

dt/sm: 11/29/11

LM

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DLC PATENTS, PLLC
13032 CRATER LAKE CIRCLE
RIVERTON, UT 84065

MAILED

JAN 18 2011

OFFICE OF PETITIONS

In re Application of
Dennis Sych
Application No. 11/398,362
Filed: April 6, 2006
Attorney Docket No. 10279.1

DECISION ON PETITION

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

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, March 16, 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 June 16, 2010.

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

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 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 2468 for appropriate action by the Examiner in the normal course of business on the reply received December 1, 2010.

April M. Wise
Petitions Examiner
Office of Petitions

cc: DENNIS SYCH
202 WATERFORD WAY
GARNET VALLEY, PA 19060

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MORGAN LEWIS & BOCKIUS LLP/RAMBUS INC.
2 PALO ALTO SQUARE
3000 EL CAMINO REAL, SUITE 700
PALO ALTO CA 94306

MAILED

OCT 12 2010

OFFICE OF PETITIONS

In re Application of	:	
Belgacem Haba	:	
Application No. 11/398,458	:	DECISION GRANTING PETITION
Filed: April 4, 2006	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 060809-5081US	:	

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on September 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 Terri Johnson at (571) 272-2991.

This application is being referred to Technology Center AU 2836 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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KATTEN MUCHIN ROSENMAN LLP
575 MADISON AVENUE
NEW YORK NY 10022-2585

MAILED
AUG 18 2010
OFFICE OF PETITIONS

In re Application of	:	
Hajime Hasegawa	:	
Application No. 11/398,460	:	DECISION GRANTING PETITION
Filed: April 5, 2006	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. FUJI 14.341RE-A	:	
(100794-0	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed August 17, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on August 10, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2618 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

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.
11/398,487	04/05/2006	Robert Obermaier	2000-6	6740

50811 7590 03/30/2011
O"Shea Getz P.C.
1500 MAIN ST. SUITE 912
SPRINGFIELD, MA 01115

EXAMINER
BAYOU, AMENE SETEGNE

ART UNIT	PAPER NUMBER
3746	

MAIL DATE	DELIVERY MODE
03/30/2011	PAPER

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

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

UNITED STATES DEPARTMENT OF COMMERCE
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Alexandria, Virginia 22313-1450

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
11398487	4/5/2006	OBERMAIER, ROBERT	2000-6

EXAMINER
AMENE S. BAYOU

ART UNIT	PAPER
3746	20110329

DATE MAILED:

O"Shea Getz P.C.
1500 MAIN ST. SUITE 912
SPRINGFIELD, MA 01115

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

Commissioner for Patents

In view of the papers filed 11/20/08, it has been found that this nonprovisional application, as filed, through error and without deceptive intent, improperly set forth the inventorship, and accordingly, this application has been corrected in compliance with 37 CFR 1.48(a). The inventorship of this application has been changed by addition of an Inventor,Stefan Schmidberger.
The application will be forwarded to the Office of Initial Patent Examination (OIPE) for issuance of a corrected filing receipt, and correction of Office records to reflect the inventorship as corrected.

/Henry Yuen/
Quality Assurance Specialist

/Amene S Bayou/
Examiner, Art Unit 3746

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
ERIC T. KING
1279 OAKMEAD PARKWAY,
SUNNYVALE, CA 94085-4040

MAILED

DEC 09 2011

OFFICE OF PETITIONS

In re Application of :
Amit Gupta et al. :
Application No. 11/398,493 : ON PETITION
Filed: April 4, 2006:
Attorney Docket No: 8895P014 :

This is a decision on the petition filed November 14, 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 26, 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 March 1, 2011. Accordingly, a Notice of Abandonment was mailed June 24, 2011.

Additionally, however, there is no indication that petitioner herein was ever empowered to prosecute the instant application. If petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation must be submitted. A courtesy copy of this decision is being 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.

---

[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)).

This matter is being referred to Technology Center 2617 for appropriate action on the amendment filed November 14, 2011.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

cc:

VAN PELT, YI & JAMES LLP
10050 N. FOOTHILL BLVD #200
CUPERTINO CA 95014

UNITED STATES PATENT AND TRADEMARK OFFICE

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BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

MAILED
MAR 14 2012
OFFICE OF PETITIONS

In re Application of
Amit Gupta
Application No. 11/398,493
Filed: April 4, 2006
Attorney Docket No.: 8895P014

DECISION GRANTING PETITION
UNDER 37 CFR 1.137(f)

This is a decision in response to the petition, filed February 2, 2012, under 37 CFR 1.137(f) 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.

The petition is **DISMISSED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country on April 4, 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.

However, a review of the record indicates that the instant nonprovisional application did not become abandoned as a result of the filing of an international application on April 4, 2006. In this regard a "Request Not to Publish" under the provisions of 35 U.S.C. § 122(b) was not submitted on filing. Therefore, any request to rescind under 35 U.S.C. § 122(b)(2)(B)(ii) would be inappropriate.

In view of the above and since this application did not become abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii), a petition to revive under the provisions of 37 CFR 1.137(b) is unnecessary and, therefore, must be dismissed.

The rules and statutory provisions governing the operations of the USPTO require payment of a fee on filing each petition. *See* 35 U.S.C. § 41(c)(7). Accordingly, the petition fee of $930 submitted with this petition will not be refunded.

This application is being referred to the Technology Center 2617 for further prosecution.

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

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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POSZ LAW GROUP, PLC
12040 SOUTH LAKES DRIVE
SUITE 101
RESTON VA 20191

MAILED
NOV 22 2011
OFFICE OF PETITIONS

In re Patent No. 7,825,953	:	
Issue Date: November 2, 2010	:	
Application No. 11/398,552	:	DECISION ON PETITION
Filed: April 6, 2006	:	
Attorney Docket No. 01-1169	:	

This is a decision on the petition filed October 11, 2011, under 37 CFR 1.182, requesting issuance of a duplicate Letters Patent for the above-identified patent.

The petition is **GRANTED**.

The Publishing Division is directed to issue a duplicate Letters Patent.

The payment of $400 for the petition fee under 37 CFR 1.182 has been submitted.

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

Inquiries regarding the issuance of a duplicate Letters Patent may be directed to Ollie Person at (703) 756-1555 in the Office of Data Management.

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

Thurman K. Page
Petitions Examiner
Office of Petitions

cc: Ollie Person, Randolph Square, 9th Floor, Room D30-A (Fax No. (571) 270-9764)
Kimberly Terrell, Randolph Square, 9th Floor, Room D33 (Fax No. (571) 270-9958)

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

MAILED

SEP 2 0 2010

OFFICE OF PETITIONS

In re Application of	:	
George TOLEDO	:	
Application No. 11/398,862	:	DECISION ON PETITION
Filed: April 5, 2006	:	
Docket No. 27458-2050	:	

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, November 24, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on February 25, 2009.

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

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

This application is being referred to Technology Center AU 3677 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

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.
11/398,867	04/06/2006	Alessandro Gomez	26068-37B	1153

34238 7590 01/14/2011
ARTHUR G. SCHAIER
CARMODY & TORRANCE LLP
50 LEAVENWORTH STREET
P.O. BOX 1110
WATERBURY, CT 06721

EXAMINER
CERNOCH, STEVEN MICHAEL

ART UNIT	PAPER NUMBER
3752	

MAIL DATE	DELIVERY MODE
01/14/2011	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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50 Leavenworth street
P.O. BOX 1110
Waterbury, CT 06721

In re Application of: Alessandro GOMEZ
Appl. No.: 11/398,867 : DECISION ON PETITION
Filed: 04/06/2006 : Granted
For: Method of Multiplexing The Electrospray From a Single Source Resulting IN the Production of Droplets of Uniform Size:

This is a decision on the petition filed on August 9th, 2006 by which petitioners request acceptance of color drawings.

The petition requests that the color drawings, figures 1, 5a-h,10, 12, and 13 be accepted in lieu of black and white drawings.

A grantable petition under 37 C.F.R.. 1.84(a)(2) must be accompanied by a fee set forth under 37 C.F.R.. 1.17(h), three (3) sets of the color drawings in question, a black and white photocopy of said drawings, and the specification must contain, or be amended to contain, the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings:

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

The petition was filed with the required fee and 3 (three) sets of color drawings of figures 1, 5a-h, 10, 12, and 13. The specification at page 2, prior to line 16 did contain the required notification described above.

The petition is **GRANTED**.

/Len Tran/

Len Tran, SPE, AU3752
Technology Center 3700

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	11398920
Filing Date	06-Apr-2006
First Named Inventor	James Koskey
Art Unit	3644
Examiner Name	JOSEPH SANDERSON
Attorney Docket Number	KHI0601
Title	HEATED PET BED

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus any extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee – required for all utility and plant applications filed before June 8, 1995; and for all design applications;
(4) Statement that the entire delay was unintentional.

Petition fee
The petition fee under 37CFR 1.17(m) is attached.

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

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

☒ Applicant(s) status remains as SMALL ENTITY.

☐ Applicant(s) status remains as other than SMALL ENTITY.

Issue Fee and Publication Fee :

Issue Fee and Publication Fee are not due.

☒ Issue Fee Transmittal is attached

Drawing corrections and/ or other deficiencies.

- (●) Drawing corrections and/ or other deficiencies are not required
- ( ) I certify, in accordance with 37 CFR 1.4.(D)(4), that drawing corrections and/ or other deficiencies have previously been filed on
- ( ) Drawing corrections and/ or other deficiencies are attached.
- [x] STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional.

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

- (●) An attorney or agent registered to practice before the Patent and Trademark Office who has been given power of attorney in this application.
- ( ) An attorney or agent registered to practice before the Patent and Trademark Office, acting in a representative capacity.
- ( ) A sole inventor
- ( ) A joint inventor; I certify that I am authorized to sign this submission on behalf of all of the inventors.
- ( ) A joint inventor; all of whom are signing this e-petition.
- ( ) The assignee of record of the entire interest that has properly made itself of record pursuant to 37 CFR 3.71.

Signature	/dbh/
Name	Dale B Halling
Registration Number	38170

UNITED STATES 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 8,2011

In re Application of :

James Koskey

Application No : 11398920

Filed : 06-Apr-2006

Attorney Docket No : KHI0601

DECISION ON PETITION

UNDER CFR 1.137(b)

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

The petition is **GRANTED.**

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

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

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

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

Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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WESTMAN CHAMPLIN & KELLY, P.A.
SUITE 1400
900 SECOND AVENUE SOUTH
MINNEAPOLIS, MN 55402

MAILED

MAR 15 2011

OFFICE OF PETITIONS

In re Patent No. 7,611,460 :
Issue Date: November 3, 2009 :
Application No. 11/398,921 : ON PETITION
Filed: April 6, 2006 :
Attorney Docket No. M81.12-0098 :

This is a decision on the petition filed March 1, 2010 and supplemented on November 16, 2010, under 37 CFR 3.81(b)[1] to correct the assignee's name on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **granted.**

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3210. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

This application is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Irvin Dingle
Petitions Examiner
Office of Petitions

[1] See Official Gazette of June 22, 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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RICHARD C. EMERY
ATTORNEY AT LAW
3564 ROLLING VIEW DRIVE, SUITE G
WHITE BEAR LAKE, MN 55110-7003

MAILED
AUG 19 2010
OFFICE OF PETITIONS

In re Application of	:	
Sidney Morice	:	
Application No. 11/398,923	:	ON PETITION
Filed: April 6, 2006	:	
Attorney Docket No. CRD002USPT02	:	

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

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature of Tim Clise appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. However, if Mr. Clise 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; however, all future correspondence regarding this application file will be directed solely to the address of record.

The petition is **GRANTED**.

A review of the record discloses that the application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed October 17, 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 January 17, 2009. A Notice of Abandonment was mailed on May 29, 2009.

On June 1, 2010, the present petition was filed, along with an amendment. However, the amendment is considered non-responsive by the Examiner, since it did not place the application in condition for allowance. See the attached copy of the Advisory Action.

The proposed reply required for consideration of a petition to revive this application must be a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)), an amendment that *prima facie*

places the application in condition for allowance, or the filing of a submission under 37 CFR 114 (RCE) or a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2).

It is noted that a Request for Continued Examination (RCE) was subsequently filed on July 13, 2010. Accordingly, the petition as supplemented by the July 13, 20109 RCE filing satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) under 37 CFR 1.114 and fee of $405, (2) the petition fee of $810, and (3) an adequate statement of unintentional delay[1].

This application is being referred to Technology Center AU 3617 for processing of the RCE and for appropriate action by the Examiner in the normal course of business in accordance with 37 CFR 1.114.

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

Attachment: Advisory Action

cc: TIM CLISE
605 HWY 169 N, SUITE 300
PLYMOUTH, MN 55441

[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.

Advisory Action Before the Filing of an Appeal Brief	Application No. 11/398,923	Applicant(s) MORICE, SIDNEY	
	Examiner MARK T. LE	Art Unit 3617	

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

THE REPLY FILED 01 June 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☐ The period for reply expires _____months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

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

NOTICE OF APPEAL

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

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: *See Continuation Sheet*. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: *1-3, 21-26*.
   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: _____.

/Mark Tuan Le/
Primary Examiner, Art Unit 3617

Continuation of 3. NOTE: The amended features in the instant claims require further consideration, and a further Office action would be needed to address the amended features if the proposed claims were to be entered.

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United States Patent and Trademark Office
P.O. Box 1450
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Clise, Billion & Cyr, P.A.
605 U.S. Highway 169
Suite 300
Plymouth MN 55441

MAILED
OCT 01 2010
OFFICE OF PETITIONS

In re Application of
Sidney Morice
Application No. 11/398,923
Filed: April 6, 2006
Attorney Docket No. 2040-002

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 September 8, 2010.

The request is **APPROVED**.

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

The request was signed by Tim Clise on behalf of all attorneys of record who are associated with Customer Number 44163.

All attorneys/agents associated with Customer Number 44163 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 Sidney Morice at the address list listed in the request.

There is an outstanding Office action mailed September 8, 2010, that requires a reply from the applicant.

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

/JoAnne Burke/
JoAnne Burke
Petitions Examiner
Office of Petitions

cc: Sidney Morice
10570 Grey Cloud Island Dr
St. Paul Park, MN 55071

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: 09/01/10

Patent No. : 7719506 B2
Ser. No. : 11/398,939
Inventor(s) : NAKANO, TAKETOSHI
Issued : 05/18/10
Title : **DISPLAY DEVICE AND DRIVER**
Docket No. : **56281-CIP-DIV (70840)**

Re: Request for Certificate of Correction

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

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

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

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

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

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

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

By mail: Mail Stop PETITIONS

Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

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

By fax: (571) 273-0025
ATTN: Office of Petitions

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

Lamonte M. Newsome
For Mary Diggs, Supervisor
Decisions & Certificates
Of Correction Branch
(703) 756-1574 or (703) 305-8309

EDWARDS ANGELL PALMER & DODGE LLP
P.O. BOX 55874
BOSTON MA 02205

LMN

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

MAILED

NOV 04 2010

OFFICE OF PETITIONS

In re Application of
Shunpei YAMAZAKI, et *al.*
Application No. 11/399,024
Filed: April 5, 2006
Attorney Docket No. **0553-0213.02**

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 November 3, 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 24, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2893 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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HUSCH BLACKWELL SANDERS, LLP/WELSH & KATZ
120 S RIVERSIDE PLAZA, 22ND FLOOR
CHICAGO, IL 60606

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MAR 08 2011

OFFICE OF PETITIONS

In re Application of :
Shunpei YAMAZAKI, et *al.* :
Application No. 11/399,024 :
Filed: April 5, 2006 :
Attorney Docket No. **0553-0213.02** :

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

The petition is **GRANTED**.

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

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

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

This application is being referred to Technology Center AU 2893 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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

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

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TUCKER ELLIS & WEST LLP
1150 HUNTINGTON BUILDING
925 EUCLID AVENUE
CLEVELAND, OH 44115-1414

Mail Date: 08/05/2010

Applicant	: Ronald J. Pellar	: DECISION ON REQUEST FOR
Patent Number	: 7656414	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/399,041	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/06/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **785** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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SEP 23 2010
OFFICE OF PETITIONS

KENYON & KENYON LLP
ONE BROADWAY
NEW YORK NY 10004

In re Application of	:	
Nicolay Grigorov Dimitrov	:	
Application No. 11/399,054	:	DECISION ON PETITION
Filed: April 5, 2006	:	
Attorney Docket No. 13710/1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 23, 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, October 5, 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 6, 2010. A Notice of Abandonment was mailed on April 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 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.

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 3763 for appropriate action by the Examiner in the normal course of business on the RCE received July 23, 2010.

/Kimberly Inabinet/

Kimberly Inabinet
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	11399054
Filing Date	05-Apr-2006
First Named Inventor	Nicolay Dimitrov
Art Unit	3763
Examiner Name	AARTI BERDICHEVSKY
Attorney Docket Number	13710/1
Title	Two-balloon catheter device for coronary angioplasty and its use

◉ Please withdraw me as attorney or agent for the above identified patent application and the practitioners of record associated with Customer Number: 26646

The reason(s) for this request are those described in 37 CFR:

10.40(c)(1)(iv)

10.40(c)(1)(vi)

Certifications

☒ I/We have given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intend to withdraw from employment

☒ I/We have delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled

☒ I/We have notified the client of any responses that may be due and the time frame within which the client must respond

Change the correspondence address and direct all future correspondence to the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71:

Name	Nicolay Grigorov Dimitrov
Address	32 Zahari Zograf St.
City	Sofia
State	
Postal Code	1415

Country	BG
I am authorized to sign on behalf of myself and all withdrawing practitioners.	
Signature	/Alan P. Force/
Name	Alan Force
Registration Number	39673

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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Decision Date : June 10,2011

In re Application of :

Nicolay Dimitrov

Application No : 11399054

Filed : 05-Apr-2006

Attorney Docket No : 13710/1

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 June 10,2011

The request is **APPROVED.**

The request was signed by Alan Force (registration no. 39673) on behalf of all attorneys/agents associated with Customer Number 26646 . All attorneys/agents associated with Cusotmer Number 26646 have been withdrawn.

Since there are no remaining attorneys of record, all future communications from the Office will be directed to the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71, with correspondence address:

Name Nicolay Grigorov Dimitrov

Name2

Address 1 32 Zahari Zograf St.

Address 2

City Sofia

State

Postal Code 1415

Country BG

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

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FAIN IP LAW, P.C.
P.O. BOX 680
TOME, NM 87060

MAILED
SEP 03 2010
OFFICE OF PETITIONS

In re Application of :
Douglas Gerhardt :
Application No. 11/399,070 : DECISION ON PETITION
Filed: April 6, 2006 :
Attorney Docket No. 4024.002 :

This is a decision on the renewed petition, filed August 16, 2010, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the Office action (Notice of Non-Compliant Amendment) mailed April 20, 2009, which set one (1) month or thirty (30) days period for reply. A Notice of Abandonment was mailed on January 28, 2010.

Petitioner asserts that the Office action dated April 20, 2009 was not received.

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

1. a statement from practitioner stating that the Office action was not received by the practitioner;

2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and

3. a copy of the docket record where the nonreceived Office action would have been entered had it been received and docketed must be attached to and referenced in the practitioner's statement.

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

The petition 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 the undersigned at (571) 272-3210.

This application is being referred to the Technology Center technical support staff of Art Unit 3743 for re-mailing the Office action of April 20, 2009. The period for reply will run from the mailing date of the Office action.

Irvin Dingle
Petitions Examiner
Office of Petitions

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Karl V. Kurple
400 Dulany
Alexandria, VA 22314

MAILED

SEP 08 2010

OFFICE OF PETITIONS

In re Application of	:	
John Aldridge	:	
Application No. 11/399,123	:	DECISION ON PETITION
Filed: April 6, 2006	:	TO WITHDRAW
Attorney Docket No. 8307	:	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 9, 2010.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Karl V. Kurple. Karl V. Kurple has 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
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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TEXAS INSTRUMENTS
INCORPORATED
P O BOX 655474, M/S 3999
DALLAS TX 75265

MAILED

NOV 23 2010

OFFICE OF PETITIONS

In re Application of
Shen, et al.
Application No. 11/399,207
Filed: April 6, 2006
Attorney Docket NoTI-61357

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed September 2, 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 1, 2010, which set a three (3) month shortened statutory period for reply. The application became abandoned on May 2, 2010. A Notice of Abandonment was mailed on August 17, 2010.

Examiner McKie has determined that the amendment after final rejection filed September 2, 2010, fails to place the application in condition for allowance. Accordingly, the Notice of Appeal, filed September 2, 2010, has been entered and made of record.

The appeal brief filed September 2, 2010, is noted.

The application file is being forwarded to Technology Center 2600, GAU 2611 for further processing.

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

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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MARSHALL, GERSTEIN & BORUN LLP
233 SOUTH WACKER DRIVE
6300 WILLIS TOWER
CHICAGO, IL 60606-63

MAILED

AUG 27 2010

OFFICE OF PETITIONS

In re Application of	:	
Alexander flock, et al.	:	
Application No. 11/399,239	:	DECISION ON PETITION
Filed: April 6, 2006	:	
Attorney Docket No. 330815/31062	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 5, 2010, to revive the above-identified application.

This application became abandoned for failure to timely pay the issue and publication fees on or before July 5, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed April 5, 2010. Accordingly, the date of abandonment of this application is July 6, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1510 and the publication fee of $300, (2) the petition fee of $1620; and (3) a proper statement of unintentional delay.

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

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642. All other inquiries concerning this application should be directed to the Office of Data Management 571-272-4200.

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

April M. Wise
Petitions Examiner
Office of Petitions

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MAILED
JUN 21 2011
OFFICE OF PETITIONS

MCKENNA LONG & ALDRIDGE LLP
1900 K STREET, NW
WASHINGTON DC 20006

In re Application of:	:	
Gi Bin Kim	:	
Pat. Num.: 7,483,008	:	
Issue Date: 01/27/2009	:	
Application No. 11/399367	:	ON PETITION
Filing or 371(c) Date: 04/07/2006	:	
Atty. Docket No. 8733.503.11	:	

This is a decision on the Petition Under 37 C.F.R. § 1.182, filed May 12, 2011, requesting a duplicate Letters Patent.

The petition is **GRANTED**.

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

Questions concerning this decision may be directed to the undersigned at 571-232-3232. Inquiries regarding the issuance of a duplicate Letters Patent may be directed to Ollie Person, in the Office of Data Management at (703) 756-1555.

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

/DLW/

Derek L. Woods
Attorney
Office of Petitions

CC: Ollie Person (FAX 571-270-9764)
Kimberly Terrell (FAX 571-270-9958)

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

PTO/SB/131 (02-10)
Approved for use through 02/28/2011. OMB 0651-0020
U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

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

Attorney Docket Number: MOEN3005/BEU	
Application Number: 11/399,377	Filing Date (or 371(b) or (f) Date): April 7, 2006
Patent Number: 7,667,270	Issue Date: February 23, 2010
First Named Inventor: Peter MOENS	
Title: DOUBLE TRENCH FOR ISOLATION OF SEMICONDUCTOR DEVICES	

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 /J. Ernest Kenney/	Date August 13, 2010
Name (Print/Typed) J. ERNEST KENNEY	Registration Number 19,179

***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.

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

PTO/SB/131 (01-10)
Approved for use through 02/28/2011. OMB 0651-0020
U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE
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REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH**

Attorney Docket Number: MOEN3005/JEK	Patent Number: 7667270
Filing Date (or 371(b) or (f) Date): 2006-04-07	Issue Date: 2010-02-23
First Named Inventor: Peter Moens	
Title: DOUBLE TRENCH FOR ISOLATION OF SEMICONDUCTOR DEVICES	

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

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

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

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

Signature /ThomasJMoore/	Date 2010-08-20
Name (Print/Typed) Thomas J. Moore	Registration Number 28974

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

☐ *Total of _____ forms are submitted.

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

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

PTO/SB/131 (01-10)
Approved for use through 02/28/2011. OMB 0651-0020
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

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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

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

Mail Date: 08/27/2010

Applicant	: Peter Moens	: DECISION ON REQUEST FOR
Patent Number	: 7667270	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/399,377	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/07/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **18** 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

LATIMER INTELLECTUAL PROPERTY LAW, LLP
P.O. BOX 711200
HERNDON VA 20171

MAILED
DEC 19 2011
OFFICE OF PETITIONS

In re Application of	:	
Berndtsson	:	
Application No. 11/399423	:	DECISION
Filing or 371(c) Date: 04/07/2006	:	ON PETITION
Patent No.: 7,744,819	:	
Issue Date: 08/01/2006	:	
Attorney Docket Number:	:	
06/29/2010	:	

This is a decision on the "Petition Under 37 C.F.R. § 1.182 Requesting Reprinting of U.S. Patent No. 7,744,819," filed November 22, 2011, to correct errors in printing of claims 1 and 22.

The Petition is **granted to the extent indicated**.

Petitioner files the present petition and Certificate of Correction to correct errors in the printing of claims one (1) and 22.

Applicable Law, Rules and MPEP

The applicable law, 35 U.S.C. 254, Certificate of correction of Patent and Trademark Office Mistake, provides:

> 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 stating the fact and nature of such mistake, under seal, without charge, to be recorded in the records of patents. A printed copy thereof shall be attached to each printed copy of the patent, and such certificate shall be considered as part of the original patent. Every such patent, together with such certificate, shall have the same effect and operation in law on the trial of actions for causes thereafter arising as if the same had been originally issued in such corrected form. The Director may issue a corrected patent without charge in lieu of and with like effect as a certificate of correction.

The applicable Rule, 37 CFR 1.322 states in relevant part:

> § 1.322 Certificate of correction of Office mistake.
> (a)

(1) The Director may issue a certificate of correction pursuant to 35 U.S.C. 254 to correct a mistake in a patent, incurred through the fault of the Office, which mistake is clearly disclosed in the records of the Office:

(i) At the request of the patentee or the patentee' s assignee;
(ii) Acting sua sponte for mistakes that the Office discovers; or
(iii) Acting on information about a mistake supplied by a third party.
(2)
(b) If the nature of the mistake on the part of the Office is such that a certificate of correction is deemed inappropriate in form, the Director may issue a corrected patent in lieu thereof as a more appropriate form for certificate of correction, without expense to the patentee.

Analysis/conclusion

In this instance the appropriate measure for correction is a Certificate of Correction. The Examiner has approved the changes proposed by Petitioner in the Certificate of Correction.

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
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WHITHAM, CURTIS & CHRISTOFFERSON & COOK, P.C.
11491 SUNSET HILLS ROAD
SUITE 340
RESTON, VA 20190

MAILED

SEP 03 2010

OFFICE OF PETITIONS

In re Application of :
Hiroshi Ishimaru :
Application No.: 11/399,479 : ON PETITION
Filed: April 7, 2006 :
Attorney Docket No.: 02410416AA :

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on August 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 relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2629 for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement (IDS).

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

OPAP IAP6
NOV 01 2010
PATENT & TRADEMARK OFFICE

Thomas R. Vigil
Law Offices
Patents, Trademarks & Copyrights
319 Bluff Court
Lake Barrington, Illinois 60010
P.O. Box 387, Barrington, Illinois 60011
Telephone: (847) 842-6407
Facsimile: (847) 382-6895
EMail: trvigil22@comcast.net

CofC

October 27, 2010

MAIL STOP PETITIONS
Commissioner of Patents
P.O. Box 1450
Alexandria, VA 22313-1450

or Correction

Re: Our File Ref. No.: VWWH-40005 (formerly 8034-97065)
U.S. Patent Application Serial No.: 11/399,563
Filed: April 6, 2006
Now U.S. Patent No.: 7,623,015 B2
Granted: November 24, 2009
For: ELECTRIC COIL OR POWER INVERTER

Dear Sir or Madam:

Applicant's submit that the failure to include the correct Assignee name on the PTOL-85B was inadvertent and enclosed is a copy of the Notice of Recordation of the Assignment document reflecting the reel and frame number of the recorded Assignment, thereby proving the date the Assignment was submitted for recordation.

Applicant further requests that the file be forwarded to the Certificate of Corrections branch for issuance of the Certificate of Correction.

Finally, if any of the errors noted in the Certificate of Correction were errors, such as typographical errors, that appeared in the record and were not the fault of the Office, please effect the corrections pursuant to 37 CFR § 1.323 and charge any fees required under 37 CFR §1.20(a) and/or 37 CFR § 1.117(h)to our Deposit Account No. 504041.

Best regards,

THOMAS R. VIGIL LAW OFFICES

Thomas R. Vigil

OPAP
IAP6
NOV 0 1 2010
PATENT & TRADEMARK OFFICE

TRV/kp
Enclosures

TO:THOMAS R. VIGAL, C/O PYLE & PIONTEK, LLC COMPANY:ROOM 2036

OPAP IAP6 NOV 0 1 2010 PATENT & TRADEMARK OFFICE

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE

700377925A

JULY 15, 2008

PTAS
THOMAS R. VIGAL, C/O PYLE & PIONTEK, LLC
ROOM 2036
221 N. LASALLE ST
CHICAGO, IL 60601

UNITED STATES PATENT AND TRADEMARK OFFICE
NOTICE OF RECORDATION OF ASSIGNMENT DOCUMENT

THE ENCLOSED DOCUMENT HAS BEEN RECORDED BY THE ASSIGNMENT DIVISION OF THE U.S. PATENT AND TRADEMARK OFFICE. A COMPLETE MICROFILM COPY IS AVAILABLE AT THE ASSIGNMENT SEARCH ROOM ON THE REEL AND FRAME NUMBER REFERENCED BELOW.

PLEASE REVIEW ALL INFORMATION CONTAINED ON THIS NOTICE. THE INFORMATION CONTAINED ON THIS RECORDATION NOTICE REFLECTS THE DATA PRESENT IN THE PATENT AND TRADEMARK ASSIGNMENT SYSTEM. IF YOU SHOULD FIND ANY ERRORS OR HAVE QUESTIONS CONCERNING THIS NOTICE, YOU MAY CONTACT THE EMPLOYEE WHOSE NAME APPEARS ON THIS NOTICE AT 571-272-3350. PLEASE SEND REQUEST FOR CORRECTION TO: U.S. PATENT AND TRADEMARK OFFICE, MAIL STOP: ASSIGNMENT SERVICES BRANCH, P.O. BOX 1450, ALEXANDRIA, VA 22313.

RECORDATION DATE: 07/14/2008 REEL/FRAME: 021237/0617
NUMBER OF PAGES: 10

BRIEF: CHANGE OF NAME (SEE DOCUMENT FOR DETAILS).

ASSIGNOR:
SMA TECHNOLOGIE AG DOC DATE: 04/30/2008

ASSIGNEE:
SMA SOLAR TECHNOLOGY AG
SONNALLE 1
NIESTETAL, GERMANY D-34266

SERIAL NUMBER: 10983205 FILING DATE: 11/05/2004
PATENT NUMBER: 7352549 ISSUE DATE: 04/01/2008
TITLE: METHOD OF AUTOMATICALLY RECOGNIZING AN ELECTRICAL SYSTEM

SERIAL NUMBER: 11154094 FILING DATE: 06/16/2005
PATENT NUMBER: ISSUE DATE:
TITLE: METHOD OF CONVERTING A DIRECT CURRENT VOLTAGE FROM A SOURCE OF DIRECT CURRENT VOLTAGE, MORE SPECIFICALLY FROM A PHOTOVOLTAIC COUSE OF DIRECT CURRENT VOLTAGE, INTO A ALTERNATING CURRENT VOLTAGE

TO:THOMAS R. VIGAL, C/O PYLE & PIONTEK, LLC COMPANY:ROOM 2036

OPAP
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IAP6
PATENT & TRADEMARK OFFICE

021237/0617 PAGE 2

SERIAL NUMBER: 11158961 FILING DATE: 06/22/2005
PATENT NUMBER: ISSUE DATE:
TITLE: INVERTER WITH A HOUSING HAVING A COOLING UNIT

SERIAL NUMBER: 11263129 FILING DATE: 10/31/2005
PATENT NUMBER: 7338311 ISSUE DATE: 03/04/2008
TITLE: PROTECTIVE DEVICE FOR A LOAD CURRENT CARRYING APPARATUS

SERIAL NUMBER: 11399563 FILING DATE: 04/06/2006
PATENT NUMBER: ISSUE DATE:
TITLE: ELECTRIC COIL OR POWER INVERTER

SERIAL NUMBER: 11484407 FILING DATE: 07/11/2006
PATENT NUMBER: ISSUE DATE:
TITLE: METHOD OF FINDING A MAXIMUM POWER OF A PHOTOVOLTAIC GENERATOR

SERIAL NUMBER: 11650781 FILING DATE: 01/08/2007
PATENT NUMBER: ISSUE DATE:
TITLE: METHOD FOR CONVERTING DIRECT VOLTAGE INTO THREE-PHASE ALTERNATING VOLTAGE

SERIAL NUMBER: 11701644 FILING DATE: 02/02/2007
PATENT NUMBER: ISSUE DATE:
TITLE: APPARATUS FOR ACCOMODATING A PLURALITY OF INDIVIDUAL INVERTERS

SERIAL NUMBER: 11788341 FILING DATE: 04/19/2007
PATENT NUMBER: ISSUE DATE:
TITLE: POWER INVERTER

SERIAL NUMBER: 11803195 FILING DATE: 05/14/2007
PATENT NUMBER: ISSUE DATE:
TITLE: MEASURING ARRAY

SERIAL NUMBER: 11890694 FILING DATE: 08/07/2007
PATENT NUMBER: ISSUE DATE:
TITLE: DEVICE FOR FEEDING ELECTRICAL ENERGY FROM AN ANERGY SOURCE

SERIAL NUMBER: 11904404 FILING DATE: 09/27/2007
PATENT NUMBER: ISSUE DATE:
TITLE: SWITCHING DEVICE AND METHOD, IN PARTICULAR FOR PHOTOVOLTAIC GENERATORS

SERIAL NUMBER: 11977115 FILING DATE: 10/23/2007
PATENT NUMBER: ISSUE DATE:
TITLE: BIDIRECTIONAL BATTERY POWER INVERTER

SERIAL NUMBER: 11977270 FILING DATE: 10/23/2007
PATENT NUMBER: ISSUE DATE:
TITLE: INVERTER

SERIAL NUMBER: 11978334 FILING DATE: 10/29/2007
PATENT NUMBER: ISSUE DATE:
TITLE: METHOD OF MONITORING A PHOTVOLTAIC GENERATOR

SERIAL NUMBER: 12009975 FILING DATE: 01/23/2008
PATENT NUMBER: ISSUE DATE:
TITLE: BACKUP POWER SYSTEM

SERIAL NUMBER: 12069329 FILING DATE: 02/08/2008
PATENT NUMBER: ISSUE DATE:
TITLE: CIRCUIT APPARATUS FOR TRANSFORMERLESS CONVERSION OF AN ELECTRIC DIRECT VOLTAGE INTO AN ALTERNATING VOLTAGE

SERIAL NUMBER: 12151169 FILING DATE:
PATENT NUMBER: ISSUE DATE:
TITLE: INVERTER

SERIAL NUMBER: 12151259 FILING DATE: 05/05/2008
PATENT NUMBER: ISSUE DATE:
TITLE: INVERTER

SERIAL NUMBER: 12151461 FILING DATE: 05/07/2008
PATENT NUMBER: ISSUE DATE:
TITLE: INVERTER CASING

SERIAL NUMBER: 12151490 FILING DATE: 05/07/2008
PATENT NUMBER: ISSUE DATE:
TITLE: INVERTER COMPRISING A CASING

SERIAL NUMBER: 12151492 FILING DATE: 05/07/2008
PATENT NUMBER: ISSUE DATE:
TITLE: POWER MATCHING METHOD

SERIAL NUMBER: 29289745 FILING DATE: 07/31/2007
PATENT NUMBER: ISSUE DATE:
TITLE: DISPLAY FOR INVERTER FOR PHOTOVOLTAIC INSTALLATION

SERIAL NUMBER: 29307408 FILING DATE: 04/18/2008
PATENT NUMBER: ISSUE DATE:
TITLE: DISPLAY FOR INVERTER FOR PHOTOVOLTAIC INSTALLATION

SERIAL NUMBER: 29307409 FILING DATE: 04/18/2008
PATENT NUMBER: ISSUE DATE:
TITLE: DISPLAY FOR INVERTER FOR PHOTOVOLTAIC INSTALLATION

SERIAL NUMBER: 29307422 FILING DATE: 04/18/2008
PATENT NUMBER: ISSUE DATE:
TITLE: DISPLAY FOR INVERTER FOR PHOTOVOLTAIC INSTALLATION

SERIAL NUMBER: 29307423 FILING DATE: 04/18/2008
PATENT NUMBER: ISSUE DATE:
TITLE: DISPLAY FOR INVERTER FOR PHOTOVOLTAIC INSTALLATION

SERIAL NUMBER: 29307426 FILING DATE: 04/18/2008
PATENT NUMBER: ISSUE DATE:
TITLE: DISPLAY FOR INVERTER FOR PHOTOVOLTAIC INSTALLATION

TO:THOMAS R. VIGAL, C/O PYLE & PIONTEK, LLC COMPANY:ROOM 2036

021237/0617 PAGE 4

SERIAL NUMBER: 29307453 FILING DATE: 04/18/2008
PATENT NUMBER: ISSUE DATE:
TITLE: DISPLAY FOR INVERTER FOR PHOTOVOLTAIC INSTALLATION

LAZENA MARTIN, EXAMINER
ASSIGNMENT SERVICES BRANCH
PUBLIC RECORDS DIVISION

U.S SERIAL NO.:	FILING DATE:
11/154,094 ✓	06-16-2005
11/158,961 ✓	06-22-2005
11/263,129 ✓	10-31-2005
11/399,563 ✓	04-06-2006
11/484,407 ✓	07-11-2006
11/650,781 ✓	01-08-2007
11/701,644 ✓	02-02-2007
11/788,341 ✓	04-19-2007
11/803,195 ✓	05-14-2007
11/890,694 ✓	08-07-2007
11/904,404 ✓	09-27-2007
11/977,115 ✓	04-29-2006
11/977,270 ✓	04-22-2006
11/978,334 ✓	10-29-2007
12/009,975 ✓	01-23-2008
12/069,329 ✓	02-08-2008
12/151,169 ✓	05-05-2008
12/151,259 ✓	05-05-2008
12/151,461 ✓	05-07-2008
12/151,490 ✓	05-07-2008
12/151,492 ✓	05-07-2008
29/289,745 ✓	07-31-2007
29/307,408 ✓	04-18-2008
29/307,409 ✓	04-18-2008
29/307,422 ✓	04-18-2008
29/307,423 ✓	04-18-2008
29/307,426 ✓	04-18-2008
29/307,453 ✓	04-18-2008

Missing:

10/983,205 (7,352,548) 11-05-2004

U.S SERIAL NO.:	FILING DATE:
11/154,094	06-16-2005
11/158,961	06-22-2005
11/263,129	10-31-2005
11/399,563	04-06-2006
11/484,407	07-11-2006
11/650,781	01-08-2007
11/701,644	02-02-2007
11/788,341	04-19-2007
11/803,195	05-14-2007
11/890,694	08-07-2007
11/904,404	09-27-2007
11/977,115	04-29-2006
11/977,270	04-22-2006
11/978,334	10-29-2007
12/009,975	01-23-2008
12/069,329	02-08-2008
12/151,169	05-05-2008
12/151,259	05-05-2008
12/151,461	05-07-2008
12/151,490	05-07-2008
12/151,492	05-07-2008
29/289,745	07-31-2007
29/307,408	04-18-2008
29/307,409	04-18-2008
29/307,422	04-18-2008
29/307,423	04-18-2008
29/307,426	04-18-2008
29/307,453	04-18-2008

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COFC

December 19, 2011

Certificate
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of Correction

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P.O. Box 1450
Alexandria, VA 22313-1450

Re: Our File Ref. No.: VWWH-40005 (formerly 8034-97065)
U.S. Patent Application Serial No.: 11/399,563
Filed: April 6, 2006
Now U.S. Patent No.: 7,623,015 B2
Granted: November 24, 2009
For: ELECTRIC COIL OR POWER INVERTER

Dear Sir or Madam:

Further to our letter of October 27, 2010 and April 22, 2011, copies enclosed, please be advised that we are still waiting for Assignment correction to be issued on the above-identified patent.

Applicant's submit that the failure to include the correct Assignee name on the PTOL-85B was inadvertent and enclosed is a copy of the Notice of Recordation of the Assignment document reflecting the reel and frame number of the recorded Assignment, thereby proving the date the Assignment was submitted for recordation.

Applicant further requests that the file be forwarded to the Certificate of Corrections branch for issuance of the Certificate of Correction.

Finally, if any of the errors noted in the Certificate of Correction were errors, such as typographical errors, that appeared in the record and were not the fault of the Office, please effect the corrections pursuant to 37 CFR § 1.323 and charge any fees required under 37 CFR §1.20(a) and/or 37 CFR § 1.117(h) to our Deposit Account No. **504041**.

Best regards,

THOMAS R. VIGIL LAW OFFICES

Thomas R. Vigil

TRV/kp
Enclosures

PTO/SB/44 (09-07)
Approved for use through 08/31/2013. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,623,015 B2

APPLICATION NO.: 11/399,563

ISSUE DATE : November 24, 2009

INVENTOR(S) : Sven Bremicker; Norbert Moller and Frank Lampe

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:

Please correct Assignee on the Title Page from:

"(73) Assignee: SMA Technologie AG, Niestetal, (DE)"

To: --(73) Assignee: SMA Solar Technology AG, Niestetal, (DE)--.

MAILING ADDRESS OF SENDER (Please do not use customer number below):
Thomas R. Vigil, THOMAS R. VIGIL LAW OFFICES
319 Bluff Ct. Lake Barrington, ILLINOIS 60010

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.

Applicants: BREMICKER et al.
Title: ELECTRIC COIL OR POWER INVERTER
Granted: November 24, 2009
Patent No.: 7,623,015 B2

Date: April 21, 2011
Atty. Doc. No: VWWH-40005

Enclosed: 2nd Letter requesting Certificate of Correction, Copy of letter dated October 27, 2010, 2pgs; Copy of Recorded Assignment, 6pgs; PTO/SB/44, 1 pg, three (3) copies, together with this self addressed, return, postage prepaid postcard.

COMMISSIONER FOR PATENTS

Please acknowledge receipt of the above-identified documents by applying the Patent & Trademark Office seal hereto and mailing this card.

OPAP
DEC 2 2 2011
IAP5
PATENT & TRADEMARK OFFICE

Thomas R. Vigil
Law Offices
Patents, Trademarks & Copyrights
319 Bluff Court
Lake Barrington, Illinois 60010
P.O. Box 387, Barrington, Illinois 60011
Telephone: (847) 842-6407
Facsimile: (847) 382-6895
EMail: trvigil22@comcast.net

April 21, 2011

MAIL STOP PETITIONS
Commissioner of Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Re: Our File Ref. No.: VWWH-40005 (formerly 8034-97065)
U.S. Patent Application Serial No.: 11/399,563
Filed: April 6, 2006
Now U.S. Patent No.: 7,623,015 B2
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Best regards,

THOMAS R. VIGIL LAW OFFICES

Thomas R. Vigil

TRV/kp
Enclosures

OPAP
DEC 2 2 2011
IAP5
PATENT & TRADEMARK OFFICE

Thomas R. Vigil
Law Offices
Patents, Trademarks & Copyrights
319 Bluff Court
Lake Barrington, Illinois 60010
P.O. Box 387, Barrington, Illinois 60011
Telephone: (847) 842-6407
Facsimile: (847) 382-6895
EMail: trvigil22@comcast.net

October 27, 2010

MAIL STOP PETITIONS
Commissioner of Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Re: Our File Ref. No.: VWWH-40005 (formerly 8034-97065)
U.S. Patent Application Serial No.: 11/399,563
Filed: April 6, 2006
Now U.S. Patent No.: 7,623,015 B2
Granted: November 24, 2009
For: ELECTRIC COIL OR POWER INVERTER

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Applicant further requests that the file be forwarded to the Certificate of Corrections branch for issuance of the Certificate of Correction.

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Best regards,

THOMAS R. VIGIL LAW OFFICES

Thomas R. Vigil

TRV/kp
Enclosures

TO:THOMAS R. VIGAL, C/O PYLE & PIONTEK, LLC COMPANY:ROOM 2036

OPAP IAP5 DEC 2 2 2011 PATENT & TRADEMARK OFFICE

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE

7003779254

JULY 15, 2008

PTAS
THOMAS R. VIGAL, C/O PYLE & PIONTEK, LLC
ROOM 2036
221 N. LASALLE ST
CHICAGO, IL 60601

UNITED STATES PATENT AND TRADEMARK OFFICE
NOTICE OF RECORDATION OF ASSIGNMENT DOCUMENT

THE ENCLOSED DOCUMENT HAS BEEN RECORDED BY THE ASSIGNMENT DIVISION OF THE U.S. PATENT AND TRADEMARK OFFICE. A COMPLETE MICROFILM COPY IS AVAILABLE AT THE ASSIGNMENT SEARCH ROOM ON THE REEL AND FRAME NUMBER REFERENCED BELOW.

PLEASE REVIEW ALL INFORMATION CONTAINED ON THIS NOTICE. THE INFORMATION CONTAINED ON THIS RECORDATION NOTICE REFLECTS THE DATA PRESENT IN THE PATENT AND TRADEMARK ASSIGNMENT SYSTEM. IF YOU SHOULD FIND ANY ERRORS OR HAVE QUESTIONS CONCERNING THIS NOTICE, YOU MAY CONTACT THE EMPLOYEE WHOSE NAME APPEARS ON THIS NOTICE AT 571-272-3350. PLEASE SEND REQUEST FOR CORRECTION TO: U.S. PATENT AND TRADEMARK OFFICE, MAIL STOP: ASSIGNMENT SERVICES BRANCH, P.O. BOX 1450, ALEXANDRIA, VA 22313.

RECORDATION DATE: 07/14/2008 REEL/FRAME: 021237/0617
NUMBER OF PAGES: 10

BRIEF: CHANGE OF NAME (SEE DOCUMENT FOR DETAILS).

ASSIGNOR:
SMA TECHNOLOGIE AG DOC DATE: 04/30/2008

ASSIGNEE:
SMA SOLAR TECHNOLOGY AG
SONNALLE 1
NIESTETAL, GERMANY D-34266

SERIAL NUMBER: 10983205 FILING DATE: 11/05/2004
PATENT NUMBER: 7352549 ISSUE DATE: 04/01/2008
TITLE: METHOD OF AUTOMATICALLY RECOGNIZING AN ELECTRICAL SYSTEM

SERIAL NUMBER: 11154094 FILING DATE: 06/16/2005
PATENT NUMBER: ISSUE DATE:
TITLE: METHOD OF CONVERTING A DIRECT CURRENT VOLTAGE FROM A SOURCE OF DIRECT CURRENT VOLTAGE, MORE SPECIFICALLY FROM A PHOTOVOLTAIC COUSE OF DIRECT CURRENT VOLTAGE, INTO A ALTERNATING CURRENT VOLTAGE

021237/0617 PAGE 2

SERIAL NUMBER: 11158961 FILING DATE: 06/22/2005
PATENT NUMBER: ISSUE DATE:
TITLE: INVERTER WITH A HOUSING HAVING A COOLING UNIT

SERIAL NUMBER: 11263129 FILING DATE: 10/31/2005
PATENT NUMBER: 7338311 ISSUE DATE: 03/04/2008
TITLE: PROTECTIVE DEVICE FOR A LOAD CURRENT CARRYING APPARATUS

SERIAL NUMBER: 11399563 FILING DATE: 04/06/2006
PATENT NUMBER: ISSUE DATE:
TITLE: ELECTRIC COIL OR POWER INVERTER

SERIAL NUMBER: 11484407 FILING DATE: 07/11/2006
PATENT NUMBER: ISSUE DATE:
TITLE: METHOD OF FINDING A MAXIMUM POWER OF A PHOTOVOLTAIC GENERATOR

SERIAL NUMBER: 11650781 FILING DATE: 01/08/2007
PATENT NUMBER: ISSUE DATE:
TITLE: METHOD FOR CONVERTING DIRECT VOLTAGE INTO THREE-PHASE ALTERNATING VOLTAGE

SERIAL NUMBER: 11701644 FILING DATE: 02/02/2007
PATENT NUMBER: ISSUE DATE:
TITLE: APPARATUS FOR ACCOMODATING A PLURALITY OF INDIVIDUAL INVERTERS

SERIAL NUMBER: 11788341 FILING DATE: 04/19/2007
PATENT NUMBER: ISSUE DATE:
TITLE: POWER INVERTER

SERIAL NUMBER: 11803195 FILING DATE: 05/14/2007
PATENT NUMBER: ISSUE DATE:
TITLE: MEASURING ARRAY

SERIAL NUMBER: 11890694 FILING DATE: 08/07/2007
PATENT NUMBER: ISSUE DATE:
TITLE: DEVICE FOR FEEDING ELECTRICAL ENERGY FROM AN ANERGY SOURCE

SERIAL NUMBER: 11904404 FILING DATE: 09/27/2007
PATENT NUMBER: ISSUE DATE:
TITLE: SWITCHING DEVICE AND METHOD, IN PARTICULAR FOR PHOTOVOLTAIC GENERATORS

SERIAL NUMBER: 11977115 FILING DATE: 10/23/2007
PATENT NUMBER: ISSUE DATE:
TITLE: BIDIRECTIONAL BATTERY POWER INVERTER

SERIAL NUMBER: 11977270 FILING DATE: 10/23/2007
PATENT NUMBER: ISSUE DATE:
TITLE: INVERTER

SERIAL NUMBER: 11978334 FILING DATE: 10/29/2007
PATENT NUMBER: ISSUE DATE:
TITLE: METHOD OF MONITORING A PHOTVOLTAIC GENERATOR

021237/0617 PAGE 3

SERIAL NUMBER: 12009975 FILING DATE: 01/23/2008
PATENT NUMBER: ISSUE DATE:
TITLE: BACKUP POWER SYSTEM

SERIAL NUMBER: 12069329 FILING DATE: 02/08/2008
PATENT NUMBER: ISSUE DATE:
TITLE: CIRCUIT APPARATUS FOR TRANSFORMERLESS CONVERSION OF AN ELECTRIC DIRECT VOLTAGE INTO AN ALTERNATING VOLTAGE

SERIAL NUMBER: 12151169 FILING DATE:
PATENT NUMBER: ISSUE DATE:
TITLE: INVERTER

SERIAL NUMBER: 12151259 FILING DATE: 05/05/2008
PATENT NUMBER: ISSUE DATE:
TITLE: INVERTER

SERIAL NUMBER: 12151461 FILING DATE: 05/07/2008
PATENT NUMBER: ISSUE DATE:
TITLE: INVERTER CASING

SERIAL NUMBER: 12151490 FILING DATE: 05/07/2008
PATENT NUMBER: ISSUE DATE:
TITLE: INVERTER COMPRISING A CASING

SERIAL NUMBER: 12151492 FILING DATE: 05/07/2008
PATENT NUMBER: ISSUE DATE:
TITLE: POWER MATCHING METHOD

SERIAL NUMBER: 29289745 FILING DATE: 07/31/2007
PATENT NUMBER: ISSUE DATE:
TITLE: DISPLAY FOR INVERTER FOR PHOTOVOLTAIC INSTALLATION

SERIAL NUMBER: 29307408 FILING DATE: 04/18/2008
PATENT NUMBER: ISSUE DATE:
TITLE: DISPLAY FOR INVERTER FOR PHOTOVOLTAIC INSTALLATION

SERIAL NUMBER: 29307409 FILING DATE: 04/18/2008
PATENT NUMBER: ISSUE DATE:
TITLE: DISPLAY FOR INVERTER FOR PHOTOVOLTAIC INSTALLATION

SERIAL NUMBER: 29307422 FILING DATE: 04/18/2008
PATENT NUMBER: ISSUE DATE:
TITLE: DISPLAY FOR INVERTER FOR PHOTOVOLTAIC INSTALLATION

SERIAL NUMBER: 29307423 FILING DATE: 04/18/2008
PATENT NUMBER: ISSUE DATE:
TITLE: DISPLAY FOR INVERTER FOR PHOTOVOLTAIC INSTALLATION

SERIAL NUMBER: 29307426 FILING DATE: 04/18/2008
PATENT NUMBER: ISSUE DATE:
TITLE: DISPLAY FOR INVERTER FOR PHOTOVOLTAIC INSTALLATION

TO:THOMAS R. VIGAL, C/O PYLE & PIONTEK, LLC COMPANY:ROOM 2036

021237/0617 PAGE 4

SERIAL NUMBER: 29307453 FILING DATE: 04/18/2008
PATENT NUMBER: ISSUE DATE:
TITLE: DISPLAY FOR INVERTER FOR PHOTOVOLTAIC INSTALLATION

LAZENA MARTIN, EXAMINER
ASSIGNMENT SERVICES BRANCH
PUBLIC RECORDS DIVISION

U.S SERIAL NO.:	FILING DATE:
11/154,094 ✓	06-16-2005
11/158,961 ✓	06-22-2005
11/263,129 ✓	10-31-2005
11/399,563 ✓	04-06-2006
11/484,407 ✓	07-11-2006
11/650,781 ✓	01-08-2007
11/701,644 ✓	02-02-2007
11/788,341 ✓	04-19-2007
11/803,195 ✓	05-14-2007
11/890,694 ✓	08-07-2007
11/904,404 ✓	09-27-2007
11/977,115 ✓	04-29-2006
11/977,270 ✓	04-22-2006
11/978,334 ✓	10-29-2007
12/009,975 ✓	01-23-2008
12/069,329 ✓	02-08-2008
12/151,169 ✓	05-05-2008
12/151,259 ✓	05-05-2008
12/151,461 ✓	05-07-2008
12/151,490 ✓	05-07-2008
12/151,492 ✓	05-07-2008
29/289,745 ✓	07-31-2007
29/307,408 ✓	04-18-2008
29/307,409 ✓	04-18-2008
29/307,422 ✓	04-18-2008
29/307,423 ✓	04-18-2008
29/307,426 ✓	04-18-2008
29/307,453 ✓	04-18-2008

Missing:

10/983,205 (7,352,548) 11-05-2004

U.S SERIAL NO.:	FILING DATE:
11/154,094	06-16-2005
11/158,961	06-22-2005
11/263,129	10-31-2005
11/399,563	04-06-2006
11/484,407	07-11-2006
11/650,781	01-08-2007
11/701,644	02-02-2007
11/788,341	04-19-2007
11/803,195	05-14-2007
11/890,694	08-07-2007
11/904,404	09-27-2007
11/977,115	04-29-2006
11/977,270	04-22-2006
11/978,334	10-29-2007
12/009,975	01-23-2008
12/069,329	02-08-2008
12/151,169	05-05-2008
12/151,259	05-05-2008
12/151,461	05-07-2008
12/151,490	05-07-2008
12/151,492	05-07-2008
29/289,745	07-31-2007
29/307,408	04-18-2008
29/307,409	04-18-2008
29/307,422	04-18-2008
29/307,423	04-18-2008
29/307,426	04-18-2008
29/307,453	04-18-2008

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

MAILED

JAN 10 2011

OFFICE OF PETITIONS

In re Application of	:	
William Hainline	:	
Application No. 11/399,582	:	DECISION ON PETITION
Filed: April 5, 2006	:	TO WITHDRAW
Attorney Docket No. NW2078 (7785-539)	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 3, 2010.

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

A review of the file record indicates that the power of attorney to Schwegman, Lundberg & Woessner, P.A. has been revoked by the assignee of the patent application on June 2, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to Terri Johnson at 571-272-2991.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

cc: **AT&T Legal Department - GMG**
Attn: Patent Docketing
Room 2A-207
One AT&T Way
Bedminster NJ 07921

UNITED STATES 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 E. POLLI
3524 BUCKS COUNTY COURT
ELLICOTT CITY, MD 21043

MAILED

SEP 14 2010

OFFICE OF PETITIONS

In re Application of
James E. Polli, et al.
Application No. 11/399,600
Filed: April 7, 2006
Attorney Docket No.

DECISION ON PETITION

This is a decision on the renewed petition, filed July 12, 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.

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.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the non-final Office action mailed September 14, 2009, which set a one (1) month shortened statutory period for reply. A Notice of Abandonment was mailed on October 16, 2009.

Petitioner asserts that the Office action dated September 14, 2009 was not received.

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

1. a statement from practitioner stating that the Office action was not received by the practitioner;

2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and

3. a copy of the docket record where the non-received Office action would have been entered had it been received and docketed must be attached to and referenced in the practitioner's statement.

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

The petition 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**.

It is noted that the petitioner request to change the correspondence address to Whitham, Curtis, Christofferson & Cook, PC. The request is still considered improper because the petitioner has not filed a proper revocation and power of attorney. The previous power of attorney filed with the application on April 8, 2009 was not accepted because it was signed by the assignee and did not provide a proper 3.73(b) statement. Since the power of attorney is considered improper, the request to change the address to Whitham, Curtis, Christofferson & Cook, PC at 11491 Sunset Hills Road, Suite 340, Reston VA 20190 by way of customer number 30743 the address will remain with James E. Polli at 3524 Bucks County Court, Ellicott City, MD 21043 until a proper power of attorney and request to change correspondence address is received.

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

This application is being referred to the Technology Center technical support staff of Art Unit 3626 for re-mailing the Office action of September 14, 2009. The period for reply will run from the mailing date of the Office action.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

cc: WHITHAM, CURTIS & CHRISTOFFERSON & COOK, PC
11491 SUNSET HILLS ROAD
SUITE 340
RESTON, VA 20190

UNITED STATES PATENT AND TRADEMARK OFFICE

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

EDWARDS ANGELL PALMER & DODGE LLP
P.O. BOX 55874
BOSTON MA 02205

MAILED
JUN 20 2011
OFFICE OF PETITIONS

Patent No. 7,779,636	:	
Issue Date: August 24, 2010	:	
Application No. 11/399,634	:	ON PETITION
Filed: April 6, 2006	:	
Attorney Docket No. 61817(49370)	:	

This is a decision on the petition filed October 6, 2010, which will be treated as a request under 37 CFR 3.81(b) to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **GRANTED**.

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

A petition under 37 CFR 3.81 requires a fee of $130. As such, this fee will be charged to petitioner's deposit account.

Telephone inquiries concerning this decision may be directed to the Kimberly Inabinet at (571) 272-4618. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (703) 756-1814.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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.
11/399,642	04/06/2006	Woun Seo	003168.1057	1129

11030 7590 03/28/2011
Baker Botts L.L.P.
30 Rockefeller Plaza
New York, NY 10112-4498

EXAMINER
PIHONAK, SARAH

ART UNIT	PAPER NUMBER
1627	

MAIL DATE	DELIVERY MODE
03/28/2011	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
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Baker Botts L.L.P.
30 Rockefeller Plaza
New York NY 10112-4498

MAR 2 8 2011

In re Application of:
Woun Seo
Serial No.: 11/399,642
Filed: April 6, 2006
Attorney Docket No.: **003168.1057**

: PETITION DECISION

This is in response to the petition under 37 CFR § 1.59(b), filed February 24, 2011 to expunge information from the above identified application. This application has not been allowed.

Petitioner requests that the documents containing information subject to a Protective Order submitted to the Patent Office on February 24, 2011, be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PATTON BOGGS LLP
1801 CALFORNIA STREET
SUITE 4900
DENVER CO 80202

MAILED

NOV 08 2010

OFFICE OF PETITIONS

In re Application of	:	
Italo D. Travez et al.	:	DECISION ON PETITION
Application No. 11/399,648	:	TO WITHDRAW
Filed: April 7, 2006	:	FROM RECORD
Attorney Docket No. **029233.0116PTUS**	:	

This is a decision on the request to withdraw as attorney of record under 37 CFR § 1.36(b), filed October 20, 2010.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to attorneys/agents associated with Customer Number 44966 has been revoked by the applicants of the patent application on October 8, 2010. Accordingly, the request to withdraw under 37 CFR § 1.36(b) is moot.

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

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

/JoAnne Burke/
JoAnne Burke
Petitions Examiner
Office of Petitions

cc: John W. Ryan
Sullivan & Worcester LLP
1666 K Street NW
Suite 700
Washington, DC 20006

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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GORDON K ANDERSON
14632 PACIFIC STREET
TUSTIN CA 92780

MAILED
JUL 12 2011
OFFICE OF PETITIONS

In re Patent No. 7,204,275	:	
Issue Date: April 17, 2007	:	
Application No. 11/399,662	:	ON PETITION
Filed: April 7, 2006	:	
Attorney Docket No. CONTRERAS #706	:	

This is a decision on the petition under 37 CFR 1.378(c), filed June 20, 2011, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on April 18, 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

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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ARNOLD & PORTER LLP
ATTN: IP DOCKETING DEPT.
555 TWELFTH STREET, N.W.
WASHINGTON DC 20004-1206

MAILED
SEP 21 2011
OFFICE OF PETITIONS

In re Application of	:	
Osborne et al.	:	
Application No.: 11/399733	:	ON PETITION
Filing or 371(c) Date: 04/07/2006	:	
Title of Invention:	:	
ARTIFICIAL INTELLIGENCE	:	
SYSTEM FOR GENETIC ANALYSIS	:	

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 August 26, 2011.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely reply to the non-final Office action, mailed March 21, 2008. The Office action set a three (3) period for reply. Extensions of time under 37 CFR 1.136(a) were available. No reply having been received, the application became abandoned on June 22, 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 a Terminal Disclaimer[1] 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.

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.

It is noted that Applicant filed a three (3) month extension of time with the petition. Applicant is advised that an extension of time is only available to extend the period to reply to an Office action during the extendable period. Once the reply period, including the maximum extendable

[1] The Office notes that the grant of a petition under 37 CFR 1.137 is not a determination that any reply under 37 CFR 1.111 is complete. After revival of the application, the patent examiner may, upon more detailed review, determine that the reply is lacking in some respect. See MPEP 711.03(c)(II)(A)(2)(a).

period, has lapsed, the application becomes abandoned (as of the day after the reply was due). No extensions of time are available. Applicant should request a refund of the extension of time fee by writing to the Office of Finance, Refund Section. A copy of this decision should accompany Applicant's request.

This application is being referred to Technology Center Art Unit 2624 for processing of the response to the Office action filed with the petition in the normal course of business.

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

/DLW/

Derek L. Woods
Attorney
Office of Petitions

CC: ARNOLD & PORTER LLP
1810 PAGE MILL ROAD
SUITE 110
PALO ALTO, CA 94304

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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BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE CA 94085-4040

MAILED

JUN. 13 2011

OFFICE OF PETITIONS

In re Application of :
Roger :
Application No. 11/399,751 : DECISION ON PETITION
Filed: April 7, 2006 :
Attorney Docket No. 15675P602 :

This is a decision on the petition, filed February 22, 2011, which is being treated as a petition under 37 CFR 1.181 requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

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

This above-identified application became abandoned for failure to timely file a proper reply within the meaning of 37 CFR 1.113 to the final Office Action of June 28, 2010. An advisory action mailed on October 12, 2010 informed applicant the amendment submitted on September 28, 2010 failed to place the application in condition for allowance. A second advisory action mailed December 2, 2010, informed applicant that the amendment filed on November 29, 2010 failed to place the application in condition for allowance.[1] This application was held abandoned on December 29, 2010. A Notice of Abandonment was mailed on February 11, 2011.

Petitioner contends that the Office improperly issued an advisory action on October 12, 2010 in response to applicant's September 28, 2010. Petitioner maintains that the June 28, 2010 Office action was not a final rejection because both boxes indicating the action was final and non-final were checked on the Office action summary. Petitioner request the entry of the amendments filed on November 28, 2010 and the issuance of a proper second Office action.

[1] It is noted that a three month extension of time is required for consideration of the amendment submitted on November 29, 2010. In accordance with the general authorization deposit account 02-2666 will be charged the three month extension time fee in the amount of $1,110.

Petitioner's argument has been considered but determined to be unpersuasive. A review of the record shows that the Office action mailed on June 28, 2010 was a final Office action. It is acknowledged that the Office Action Summary did have both boxes checked off. However, further review of the action shows that it clearly indicates that the action was made final (see page 4 of June 28, 2010 Office action).

Further, pursuant to MPEP 706.07(b) it is possible for the first Office action after a Request for Continued Examination (RCE) to result in a final Office action. MPEP 706.07(b) states in pertinent part:

> The claims of an application for which a request for continued examination (RCE) has been filed may be finally rejected in the action immediately subsequent to the filing of the RCE (with a submission and fee under 37 CFR 1.114) where all the claims in the application after the entry of the submission under 37 CFR 1.114 (A) are drawn to the same invention claimed in the application prior to the entry of the submission under 37 CFR 1.114, and (B) would have been properly finally rejected on the grounds and art of record in the next Office action if they had been entered in the application prior to the filing of the RCE under 37 CFR 1.114.

In the instant application, the examiner has determined that all claims were drawn to the same invention claimed in the earlier application and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the application prior to the filing of the RCE under 37 CFR 1.114. As such the mailing of an advisory action after the submission of an amendment after final which did not place the application in condition for allowance is an appropriate response.

Since a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b) was not submitted within the maximum extendable time period (December 28, 2010) the application was properly held abandoned

Further, pursuant to 37 CFR 1.116 (b) the admission of, or refusal to admit, any amendment after a final rejection, a final action, an action closing prosecution, or any related proceedings will not operate to relieve the application or patent under reexamination from its condition as subject to appeal or to save the application from abandonment under § 1.135, or the reexamination from termination. MPEP 711.03 (c) is clear that an amendment after final rejection will not operate to avoid abandonment of the application in the absence of a timely and proper appeal, when the applicant simply permits the maximum extendable statutory period for reply to expire while awaiting a notice of allowance or other action.

Thus, the application was properly held abandoned.

The petition fee is not required under 37 CFR 1.181 in this instance. As such the $400.00 petition fee will be refunded.

If petitioner cannot supply the evidence necessary to withdraw the holding of abandonment, or simply does not wish to, petitioner should consider filing a petition under 37 CFR 1.137(b) stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the $1620/ $810 petition fee.

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

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

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

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

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

Charlema Grant
Attorney
Office of Petitions

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

BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE CA 94085-4040

MAILED
SEP 02 2011
OFFICE OF PETITIONS
ON PETITION

In re Application of :
Roger :
Application No 11/399,751 :
Filed: April 7, 2006 :
Attorney Docket No. 15675P602 :
:

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

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of June 28, 2010. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is September 29, 2010. A Notice of Abandonment was mailed on February 11, 2011.

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

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

This application is being referred to Technology Center AU 3782 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the previous amendment submitted in accordance with 37 CFR 1.114.

Charlema Grant
Petitions Attorney
Office of Petitions

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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PAUL K. GODWIN
PAUL K. GODWIN, P.C.
7218 PINE VISTA DR.
BRIGHTON MI 48116

MAILED

APR 29 2011

OFFICE OF PETITIONS

In re Patent No. 7,360,361	:	
Issued: April 22, 2008	:	
Application No. 11/399,775	:	ON PETITION
Filed: April 7, 2006	:	
Attorney Docket No. APT 2.008	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed March 14, 2011.

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

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

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

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

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

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

MAILED

DEC 23 2011

OFFICE OF PETITIONS

In re Application of	:	
Kent et al.	:	
Application No. 11/399953	:	ON APPLICATION FOR
Filing or 371(c) Date: 04/07/2006	:	RECONSIDERATION OF
Attorney Docket Number: 16892US01	:	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 November 30, 2011. Applicants' request recalculation of the patent term adjustment calculation to 626 days, not 485 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 141 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 141 days is **DISMISSED**.

On September 6, 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 485 days.

On November 30, 2011, applicants timely submitted the instant application for patent term adjustment[1]. Applicants request that the Determination of Patent Term Adjustment be corrected from 485 days, as indicated on the Determination of PTA mailed November 30, 2011, to an adjustment of 626 days. Applicants aver that the Office erred in failing to calculate an adjustment of 141 days pursuant to 37 CFR 1.702(e), in connection with the filing of a Notice of Appeal and subsequent mailing of a non-final Office action. 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 payment of the Issue Fee was received in November 30, 2011.

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 485 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

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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Steinfl & Bruno
301 N Lake Ave Ste 810
Pasadena CA 91101

MAILED
JUN 16 2011
OFFICE OF PETITIONS

In re Application of :
Emmanuel Candes, et al. :
Patent No. 7,840,625 : NOTICE
Application No. 11/400,048 :
Filed: April 7, 2006 :
Attorney Docket No. P121-US

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

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

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

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-2991.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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.
11/400,060	04/07/2006	Randolph Borene	D-2011-01-26-BORRENE	9057

87563 7590 05/31/2011
Ken Campbell
P.O. Box 1381
Denver, CO 80132

EXAMINER
PAGE, EVAN RANDALL

ART UNIT	PAPER NUMBER
3715	

NOTIFICATION DATE	DELIVERY MODE
05/31/2011	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):

AffordablePatents@yahoo.com
AffordablePatents@hotmail.com

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Ken Campbell
P.O. Box 1381
Denver CO 80132

In re Application of: BORENE, RANDOLPH Serial No. 11/400,060 Filed: April 7, 2006 Docket: D-2011-01-26-BORRENE Title: SOUND-OUTPUTTING CONTAINER-CLOSURE ARTICLE AND METHOD	DECISION ON PETITION UNDER 37 CFR § 1.181

This is a decision on the petition, filed March 28, 2011, under 37 CFR 1.181, to withdraw the holding of abandonment. The petition is being considered as a petition pursuant to 37 CFR 1.181(a). No fee is required.

The petition under 37 CFR 1.181 is GRANTED in part to the extent of withdrawal of abandonment.

The present application was held abandoned for failure to timely file an appeal brief. Notice of abandonment was mailed on March 16, 2011. A review of the record shows that the applicant timely submitted a Notice of Appeal on Nov. 26, 2010. An appeal brief is due within two months from the filing of the Notice of Appeal on Nov. 26, 2010 with appropriate extension of time in accordance with 37 CFR § 1.136. Therefore, the notice of abandonment of March 28, 2011 was sent in error. Accordingly, this application is being forwarded to the examiner via the Supervisory Patent Examiner of Art Unit 3715 awaiting the applicant's appeal brief. Any inconvenience or delay caused to applicant is regretted.

Petitioner has also requested that the examiner and staff members be replaced. A review of the entire file records shows no evidence that the examiner and any staff members have taken an arbitrary and capricious position but have acted properly within the scope of their authority. There is no reason to believe that the examiner and the staff member will not continue to do so. Moreover, applicant has the right to appeal the rejection of the claimed invention in accordance with 37 CFR § 41.31 if he/she disagrees with the stated position of the examiner. The Notice of Appeal was in fact filed on November 26, 2010. An appeal Brief and appropriate extension of time should be timely filed.

With regard to the requested refund of fees paid to USPTO, 35 USC § 42(d) permits a refund of "any fee paid by mistake or any amount paid in excess of that required." Thus, the Office may refund: (1) a fee paid when no fee is required (a fee paid by mistake); 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 Pats. 1943) (the statutory authorization for the refund of fees is applicable only to a mistake relating to fee payment). However, petitioner has not shown, nor does inspection of the record reveal, that the fee in question was paid either in excess or by mistake. Since the fee was paid in the proper amount, the fee was not paid in excess. Under the circumstances, the requested refund can not be approved. The Office has no authority to waive any fees.

Finally, with regard to the requested adjustment of patent term, the applicant should file a separate petition to adjust the patent term should the application become allowable.

Conclusion

Under the circumstances, the relief requested by the petitioner is granted to the extent to withdraw the holding of abandonment at this time. The requested full refund and replacement of a new examiner and staff members will not granted for the reasons as stated above.

The application is being forwarded to Supervisory Patent Examiner of Art Unit 3715 awaiting the applicant's Appeal Brief. Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision, 37 CFR 1.181(f). No extension of time under 37 CFR 1.136(a) is permitted. The mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings (37 CFR 1.181(f)). The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181". Any inquiry regarding this decision should be directed to Henry C. Yuen, Quality Assurance Specialist, at (571) 272-4856.

The petition is granted in Part.

Donald T. Hajec, Director
Technology Center 3700

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

MAILED

JUN 02 2011

OFFICE OF PETITIONS

In re Application of	:	
Ala-Luukko et al.	:	DECISION ON PETITION
Application No. 11/400073	:	UNDER 37 CFR 1.183
Filing or 371(c) Date: 04/06/2006	:	
Attorney Docket No. 088245-3122	:	

This is a decision on the "Petition Under 37 C.F.R. § 1.47(a)," filed March 30, 2011, to accept the application on behalf of signing co-inventor Jussi Koski, and on behalf of non-signing inventor Sami Ala-Luukko.

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 1.147."

BACKGROUND

On April 6, 2006, the present application was filed as an application for reissue of U.S. Patent No. 6,718,168, and identified as inventors Sami Ala-Luukko and Jussi Koski.

A petition under 37 CFR 1.47(b), was filed July 24, 2007, by the assignee of the present application, Data Advisors LLC, to allow a person to whom an inventor has assigned or agreed in writing to assign the invention, or who otherwise shows sufficient proprietary interest in the matter justifying such action, to make application on behalf of and as agent for all inventors.

A Decision granting Rule 47 status to the assignee of the present application, Data Advisors LLC, was mailed January 14, 2008.

During the prosecution of the present application, the Office required a supplemental declaration directed to errors in the original patent which were corrected in the present application after the signing of the original reissue declaration.

Petitioner files the present petition and a Supplemental oath/declaration executed by inventor Koski only. Petitioner sets forth steps taken to secure joint inventor Ala-Luukko's signature on the supplemental declaration. Petitioner provides that a copy of the reissue application as filed; a copy of the Amendment and Reply filed on April 6, 2006, and a supplemental reissue declaration were sent to inventor Ala-Luukko via Federal Express on or about February 4, 2011. However, inventor Ala-Luukko has not responded to Applicant.

DECISION

Office records confirm that Rule 47 status was granted in the Decision on petition mailed January 14, 2008. While an inventor may subsequently join in the application, once established, Rule 47 status remains once granted. The party receiving rule 47 status, here, the assignee, may act on behalf of all inventors for subsequent declarations that may be required to be submitted by the inventors.

CONCLUSION

In view of the foregoing, the present petition to accept the application on behalf of signing co-inventor Jussi Koski, and on behalf of non-signing inventor Sami Ala-Luukko, is dismissed.

Jurisdiction over the application is forwarded to Technology Center Art Unit 2618 for further examination and prosecution.

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

By mail: Director for Patents
PO Box 1450
Alexandria, VA 22313-1450

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

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

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

/DLW/

Derek L. Woods
Attorney
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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JUL 06 2011
PCT LEGAL ADMINISTRATION

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

In re Application of ALA-LUUKKO et al.	:	
Application No.: 11/400,073	:	
Filing Date: 06 April 2006	:	DECISION
Attorney's Docket No.: 012.P28017	:	
For: TRANSMISSION OF MULTIMEDIA	:	
MESSAGES BETWEEN MOBILE STATION	:	
TERMINALS	:	

This is a decision on applicant's "Petition for Unintentional Delay of Priority Claim" filed 06 April 2006 in the United States Patent and Trademark Office.

BACKGROUND

On 06 April 2006, applicant filed application papers with a "Reissue Patent Application Transmittal" letter. The Preliminary Amendment which was filed with the Transmittal letter indicated that "The present application is the National Stage Application of International Application No. PCT/FI00/00969 filed on November 6, 2000, which claims priority to Finland Patent Application Number 19992399, filed November 5, 1999". The application was treated as filing under 35 U.S.C. 111.

DISCUSSION

As explained at Section 1893.03(a) of the Manual of Patent Examining Procedure (MPEP), any intended filing of an international application as a national stage application must clearly and unambiguously be identified as such and must satisfy all of the conditions set forth in 35 U.S.C. 371(c). *See* 37 CFR 1.495(g):

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

In addition, section 1893.03(a) of the MPEP states the following:

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

Here, the inclusion of conflicting indications of applicant's intent in the materials filed on 06 April 2006 constitutes "conflicting instructions" which, pursuant to the MPEP, requires that the application be treated under 35 U.S.C. 111(a). The USPTO correctly treated the application as a filed under 35 U.S.C. 111. Accordingly, the original papers deposited on 06 April 2006 will be treated as a filing under 35 U.S.C. 111(a).

CONCLUSION

In view of the above, it is proper to treat the initial filing as a filing under 35 U.S.C. 111(a). Applicant's petition is **DISMISSED**.

/Cynthia M. Kratz/
Cynthia M. Kratz
Attorney Advisor
PCT Legal Office
Office of PCT Legal Administration

Telephone: (571) 272-3286
Facsimile: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

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PCT LEGAL ADMINISTRATION

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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

In re Application of ALA-LUUKKO et al. Application No.: 11/400,073 Filing Date: 06 April 2006 Attorney's Docket No.: 012.P28017 For: TRANSMISSION OF MULTIMEDIA MESSAGES BETWEEN MOBILE STATION TERMINALS	:	DECISION on RENEWED PETITION UNDER 37 CFR 1.78(a)(3)

This is a decision on "Renewed Petition Under 37 CFR 1.78" for unintentional delay of priority claim filed 31 August 2011 in the United States Patent and Trademark Office, to accept an unintentionally delayed claim under 35 U.S.C. §120 and 365(c) for the benefit of priority of PCT Application No. PCT/FI00/00969, filed on 06 November 2000.

A review of U.S. patent no. 6,718,168 reveals that it contains a proper reference to the international application which claims the benefit of Finnish Application No. 19992399, filed 5 November 1999.

Accordingly, the petition is **DISMISSED AS MOOT**.

The petition fee of $1410 will be refunded to applicant's deposit account.

Any questions concerning this matter may be directed to Cynthia Kratz at (571) 272-3286.

The application is being returned to Technology Center AU 2618 for further processing.

/Bryan Lin/
Bryan Lin
PCT Legal Examiner
Office of PCT Legal Administration

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PERKINS COIE LLP
PATENT-SEA
P.O. BOX 1247
SEATTLE WA 98111-1247

MAILED
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OFFICE OF PETITIONS

In re Application of	:	
Stephen J. Borza	:	
Application No. 11/400,074	:	DECISION ON PETITION
Filed: April 7, 2006	:	PURSUANT TO
Attorney Docket No.	:	37 C.F.R. § 1.47(B)
32052.8465.US01	:	
Title: METHOD OF DISTRIBUTING	:	
PIRACY PROTECTED COMPUTER	:	
SOFTWARE	:	

This is in response the petition pursuant to 37 C.F.R. § 1.47(b), filed June 22, 2010.

This petition is **DISMISSED**.

The present application is for the reissue of U.S. Patent number 6,721,891, which issued on April 13, 2004, from application number 09/277,827.

On April 7, 2006, this reissue application was filed without an executed reissue declaration, identifying Stephen J. Borza as the sole inventor. On April 24, 2006, the Office mailed a notice requiring, *inter alia*, a fully executed reissue oath or declaration. On November 28, 2006, Petitioner submitted a petition pursuant to 37 C.F.R. § 1.47(b) along with a five-month extension of time. On March 26, 2007, a fully-executed reissue declaration was submitted electronically. On May 22, 2007, a petition pursuant to 37 C.F.R. § 1.183 was filed, which sought the waiver of the prohibition against the electronic submission of the same. The petition was dismissed via the mailing of a decision on June 22, 2007; a renewed petition was filed on July 2, 2007, and the Office mailed a decision on July 24, 2007, which

granted the Rule 1.183 petition and dismissed the Rule 1.47(b) petition as moot.

The present petition pursuant to 37 C.F.R. § 1.47(b), along with the concurrently-submitted reissue declaration, amendments to the claims, and remarks, was submitted in response to a non-final Office action of December 22, 2009, which indicated that the aforementioned fully executed reissue declaration is defective.

The July 24, 2007 decision made no finding that the reissue declaration was fully compliant with all the reissue requirements. And, a new reissue declaration has been submitted to correct the deficiency noted by the Examiner (in the non-final Office action of December 22, 2009), and this submission is being treated as a petition pursuant to 37 C.F.R. § 1.47(b).

A grantable petition under 37 C.F.R. § 1.47(b) requires:

(1) the petition fee of as set forth in 37 C.F.R. § 1.17(g);
(2) the surcharge as set forth in 37 C.F.R. § 1.16(f), if the petition is not filed at the time of filing the application;
(3) a statement of the last known address of each non-signing inventor;
(4) proof that either:
    (a) a copy of the application was sent or given to each non-signing inventor for review and proof that each non-signing inventor refused to sign, or;
    (b) proof that diligent efforts have been made to locate each non-signing inventor;
(5) proof that the Rule 47(b) applicant has sufficient proprietary interest in the subject matter to justify the filing of the application;
(6) proof of irreparable damage, and;
(7) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116 and 37 C.F.R. § 1.63.

With this petition, Petitioner has included, *inter alia*, a three-month extension of time so as to make timely this submission, the petition fee, a statement of the last known address of the non-signing joint inventor,[1] a statement of facts which establishes that a complete copy of the application was sent to the last

1 Petition, page 2

known address of the non-signing sole inventor,[2] and proof of irreparable damage.[3] It is noted that the record contains proof that the Rule 47(b) applicant has sufficient proprietary interest in the subject matter to justify the filing of the application.[4]

Since the prior reissue declaration has been found to be improper, the previously submitted surcharge under 37 C.F.R. § 1.16(f) is being applied to the present declaration, and no further surcharge is being required.

Petitioner has met requirements (1) - (6) of 37 C.F.R. § 1.47(b). Petitioner has not, however, met requirement (7), as will now be pointed out.

Regarding the seventh requirement of 37 C.F.R. § 1.47(b), the reissue declaration cannot be accepted, since nobody has executed the reissue declaration on behalf of the non-signing inventor.[5] On renewed petition, Petitioner should have this deficiency rectified.

The contact identified in the last paragraph of this decision telephoned Petitioner on August 16, 2010, left a voice mail, and gave Petitioner until the close of business on August 18, 2010, to provide an executed reissue declaration via EFS-Web. As of August 20, 2010, an executed reissue declaration has not been submitted to the Office, and the telephone call has not been returned.

Any reply must be submitted within **TWO MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition pursuant to 37 C.F.R. § 1.47(b)." This is not a final agency action within the meaning of 5 U.S.C § 704.

Any such renewed petition should state in a prominent manner that the attorney handling this matter is Senior Attorney Paul Shanoski, and it may be submitted by mail,[6] hand-delivery,[7] or

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2 Meeker declaration of facts, paragraphs 4 and 5. See also Exhibits A, B, C, D, and F.
3 Meeker declaration of facts, paragraph 5.
4 A statement under 37 C.F.R. 3.73(b) was submitted on June 28, 2008.
5 See MPEP § 409.03(b)(A).
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.

facsimile transmission (FAX).[8] Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web.[9]

Telephone inquiries regarding *this decision* should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.[10] All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Anthony Knight
Director
Office of Petitions

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8 (571) 273-8300 - please note that this is a central facsimile number.
9 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html
10 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

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www.uspto.gov

PERKINS COIE LLP
PATENT-SEA
P.O. BOX 1247
SEATTLE WA 98111-1247

MAILED
APR 20 2011
OFFICE OF PETITIONS

In re Application of	:	
Stephen J. Borza	:	
Application No. 11/400,074	:	DECISION ON RENEWED PETITION
Filed: April 7, 2006	:	PURSUANT TO
Attorney Docket No.	:	37 C.F.R. § 1.47(B)
32052.8465.US01	:	
Title: METHOD OF DISTRIBUTING	:	
PIRACY PROTECTED COMPUTER	:	
SOFTWARE	:	

This is in response the renewed petition pursuant to 37 C.F.R. § 1.47(b), filed March 28, 2011.

This renewed petition is **GRANTED.**

The present application is for the reissue of U.S. Patent number 6,721,891, which issued on April 13, 2004, from application number 09/277,827.

On April 7, 2006, this reissue application was filed without an executed reissue declaration, identifying Stephen J. Borza as the sole inventor. On April 24, 2006, the Office mailed a notice requiring, *inter alia*, a fully executed reissue oath or declaration. On November 28, 2006, Petitioner submitted an original petition pursuant to 37 C.F.R. § 1.47(b) along with a five-month extension of time. On March 26, 2007, a fully-executed reissue declaration was submitted electronically. On May 22, 2007, a petition pursuant to 37 C.F.R. § 1.183 was filed, which sought the waiver of the prohibition against the electronic submission of the same. The original petition pursuant to 37 C.F.R. § 1.47(b) was dismissed via the mailing of a decision on June 22, 2007; a renewed petition pursuant to 37 C.F.R. § 1.47(b) was filed on July 2, 2007, and the Office mailed a decision on

July 24, 2007, which granted the Rule 1.183 petition and dismissed the renewed Rule 1.47(b) petition as moot.

Another petition pursuant to 37 C.F.R. § 1.47(b), along with a concurrently-submitted reissue declaration, amendments to the claims, and remarks, was submitted on June 22, 2010, in response to a non-final Office action of December 22, 2009, which indicated that the aforementioned fully executed reissue declaration is defective.

The decision of July 24, 2007 made no statement that the reissue declaration was fully compliant with the reissue requirements. Therefore, a new reissue declaration was submitted to correct the deficiency noted by the Examiner in the non-final Office action of December 22, 2009, and this submission was treated as a petition pursuant to 37 C.F.R. § 1.47(b).

A grantable petition under 37 C.F.R. § 1.47(b) requires:

(1) the petition fee as set forth in 37 C.F.R. § 1.17(g);
(2) the surcharge as set forth in 37 C.F.R. § 1.16(f), if the petition is not filed at the time of filing the application;
(3) a statement of the last known address of each non-signing inventor;
(4) proof that either:
    (a) a copy of the application was sent or given to each non-signing inventor for review and proof that each non-signing inventor refused to sign, or;
    (b) proof that diligent efforts have been made to locate each non-signing inventor;
(5) proof that the Rule 47(b) applicant has sufficient proprietary interest in the subject matter to justify the filing of the application;
(6) proof of irreparable damage, and;
(7) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116 and 37 C.F.R. § 1.63.

The June 22, 2010 petition pursuant to 37 C.F.R. § 1.47(b) was dismissed via the mailing of a decision on August 27, 2010, which indicated that requirements (1) - (6) of 37 C.F.R. § 1.47(b) had been satisfied. The seventh requirement was not satisfied, as

nobody executed the concurrently submitted reissue declaration on behalf of the non-signing inventor.[1]

With this renewed petition, Petitioner has included a supplement to the aforementioned reissue declaration along with the written consent of the Assignee, which has been executed by a corporate officer of the Assignee of record. It is noted that the electronic record shows that an executed statement pursuant to 37 C.F.R. § 3.73(b) was submitted to the Office on June 28, 2008.

It follows that the seventh requirement of 37 C.F.R. § 1.47(b) has been satisfied. Consequently, each of the requirements of 37 C.F.R. § 1.47(b) has been met.

The above-identified application and papers have been reviewed and found in compliance with 37 C.F.R. § 1.47(b). This application is hereby accorded Rule § 1.47(b) status.

As provided in Rule 1.47, this Office will forward notice of this reissue application's filing to the non-signing inventor at the address that appears on the reissue declaration submitted on June 22, 2010. Notice of the filing of this reissue application will also be published in the Official Gazette.

The Technology Center will be notified of this decision, and jurisdiction over this application is transferred to the Technology Center, so that the reissue application may receive further processing. The Technology Center's support staff will notify the Examiner of this decision, so that the present application can receive further processing in due course.

Telephone inquiries regarding *this decision* should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.[2] All other

1 See MPEP § 409.03(b)(A).
2 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Anthony Knight
Director
Office of Petitions

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

Stephen J. Borza
495 Metcalf Street
Ottawa, Ontario K1S 3N9
CANADA

MAILED
APR 20 2011
OFFICE OF PETITIONS

In re Application of :
Stephen J. Borza :
Application No. 11/400,074 : LETTER
Filed: April 7, 2006 :
Attorney Docket No. :
32052.8465.US01 :
Title: METHOD OF DISTRIBUTING :
PIRACY PROTECTED COMPUTER :
SOFTWARE :

Dear Mr. Borza:

You are named as the sole inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. § 116 (United States Code) and 37 C.F.R. § 1.47(b), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as the sole inventor.

As the named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 C.F.R. § 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, the Assignee of record below would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. § 1.63.

Telephone inquiries regarding this communication should be directed to Senior Attorney Paul Shanoski at (571) 272-

3225. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Anthony Knight
Director
Office of Petitions

cc: PERKINS COIE LLP
PATENT-SEA
P.O. BOX 1247
SEATTLE WA 98111-1247

UNITED STATES 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. : 7,730,047 B2
Serial No. : 11/400,141
Inventor(s) : Christopher Michael Hugill, et. al.
Issued : June 1, 2010

Re: Request for Certificate of Correction

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

Respecting the alleged errors in column 9 and 10, lines 65 and 65 is 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
(571-272-3422 or 703-756-1580)

CPA Global
P.O. Box 52050
Minneapolis, MN 55402

ej

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CHALKER FLORES, LLP
2711 LBJ FRWY
SUITE 1036
DALLAS TX 75234

MAILED
DEC 20 2010
OFFICE OF PETITIONS

In re Application of	:	
John C. **CRISCIONE**	:	
Application No. 11/400,148	:	DECISION ON PETITION
Filed: April 6, 2006	:	
Attorney Docket No. TAMU:1017	:	

This is a decision on the petition under 37 CFR 1.59(b), filed April 23, 2010, to expunge information from the above identified application.

The petition is dismissed.

Petitioner requests that a document filed April 23, 2010, be expunged from the record.

The petition is deficient because 1) the petition does not clearly identify the information requested to be expunged, 2) the petition does not contain a clear statement that the information requested to be expunged was unintentionally submitted and 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, 3) the petition does not contain a commitment on the part of petitioner to retain the information to be expunged for the period of any patent with regard to which such information is submitted, 4) the petition does not contain a statement that the petition is being submitted by, or on behalf of, the party in interest who originally submitted the information, and 5) no agreement to retrain the information for the life of any patent that may issue from 11/400,148.

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 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
www.uspto.gov

Decision Date : May 24,2011

In re Application of :

Yerramilli Murthy

Application No : 11400231

Filed : 10-Apr-2006

Attorney Docket No : 027585-001901US

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 May 24,2011

The request is **APPROVED.**

The request was signed by John McGroarty (registration no. 41186) on behalf of all attorneys/agents associated with Customer Number 20350 . All attorneys/agents associated with Cusotmer Number 20350 have been withdrawn.

Since there are no remaining attorneys of record, all future communications from the Office will be directed to the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71, with correspondence address:

Name	IDEXX Laboratories, Inc.
Name2	
Address 1	One IDEXX Drive
Address 2	
City	Westbrook
State	ME
Postal Code	04092
Country	US

As a reminder, requester is required to inform the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71 of the electronically processed petition.

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

Office of Petitions

Doc Code: PET.AUTO **Document Description: Petition automatically granted by EFS-Web**	PTO/SB/83 U.S. Patent and Trademark Office Department of Commerce

Electronic Petition Request	**REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS**
Application Number	11400231
Filing Date	10-Apr-2006
First Named Inventor	Yerramilli Murthy
Art Unit	1648
Examiner Name	SHANON FOLEY
Attorney Docket Number	027585-001901US
Title	Phospholipid gel compositions for delivery of aptamers and methods of treating conditions using same

◉ Please withdraw me as attorney or agent for the above identified patent application and the practitioners of record associated with Customer Number: 20350

The reason(s) for this request are those described in 37 CFR:

10.40(b)(4)

Certifications

☒ I/We have given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intend to withdraw from employment

☒ I/We have delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled

☒ I/We have notified the client of any responses that may be due and the time frame within which the client must respond

Change the correspondence address and direct all future correspondence to the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71:

Name	IDEXX Laboratories, Inc.
Address	One IDEXX Drive
City	Westbrook
State	ME
Postal Code	04092
Country	US

I am authorized to sign on behalf of myself and all withdrawing practitioners.	
Signature	/John McGroarty/
Name	John McGroarty
Registration Number	41186

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KILPATRICK TOWNSEND & STOCKTON LLP / AMAT
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

MAILED

MAR 21 2011

OFFICE OF PETITIONS

In re Application of :
Balseanu et al. :
Application No. 11/400,275 : ON PETITION
Filed: April 7, 2006 :
Attorney Docket No. A9366 02/T60030 :
For: METHOD TO INCREASE TENSILE STRESS OF SILICON NITRIDE FILMS USING A POST PECVD DEPOSITION UV CURE

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

This application became abandoned for failure to timely respond to the final Office action, mailed July 30, 2010, which set an extendable three month period for reply. No extension of time being obtained under 37 CFR 1.136(a) and no reply being received in the Office, this application became abandoned on October 31, 2010. A Notice of Abandonment was mailed on March 4, 2011.

Applicants have submitted a RCE and required $810.00 fee and amendment in reply to the July 30, 2010 final Office action, an acceptable statement of the unintentional nature of the delay in responding to the July 30, 2010 final Office action, and the $1620.00 petition fee.

The petition is **GRANTED**.

After the mailing of this decision the application will be forwarded to Technology Center AU 2813 for consideration of the RCE and amendment filed on February 15, 2011.

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

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

24 SEP 2010

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GLAXOSMITHKLINE
GLOBAL PATENTS
FIVE MOORE DR., PO BOX 13398
MAIL STOP: C.2111F
RESEARCH TRIANGLE PARK NC 27709-3398

In re Application of:	:	
COCKERILL, George, Stuart, et al.	:	
U.S. Application No.: 11/400,284	:	DECISION ON PETITION
U.S. Patent No.: 7,189,734	:	
Filing Date: April 07, 2006	:	
Attorney Docket No.: PU3743US3	:	
For: ANILINOQUINAZAOLINES AS	:	
PROTEIN TYROSINE KINASE	:	
INHIBITORS	:	

This is a decision on the "Petition To Accept Unintentionally Delayed Claim For 35 U.S.C. 365(c) For The Benefit Of A Prior-Filed International Application" filed February 18, 2008, considered herein under 37 CFR 1.78(a)(3).

The petition is **DISMISSED AS MOOT**.

The above-captioned U.S. patent contains a benefit claim identifying the application as a divisional of U.S. application 11/061,578, which is a divisional of U.S. application 10/030,527. Parent application 10/030,527 is a national stage application filed under 35 U.S.C. 371 of international application PCT/US00/18128, filed 20 June 2000, but it was not specifically identified as such in the above-captioned patent. The present petition seeks acceptance of an unintentionally delayed benefit claim that specifically identifies parent application 10/030,527 as the national stage filed under 35 U.S.C. 371 of international application PCT/US00/18128.

As set forth in MPEP section 1893.03(c), "a national stage application submitted under 35 U.S.C. 371 may not claim benefit of the filing date of the international application of which it is the national stage since its filing date is the international filing date of the international application." In other words, the international application is not an earlier application (it has the same filing date as the national stage; see 35 U.S.C. 363). Thus, reference in the national stage application to the international application number is not required. Furthermore, the inclusion of such a reference does not constitute a new benefit claim under 35 U.S.C. 120 and/or 365 (c). See Broadcast Innovation, L.L.C. and IO Research PTY LTD v. Charter Communications, Inc. and Comcast Corporation, 420 F.3d 1364, 1367 (Fed. Cir., Aug 19, 2005): "Where proper reference to a national stage application exists, no reference to the corresponding PCT application is required because the national stage application effectively has the same U.S. filing date as the PCT application."

Based on the above, a petition for acceptance of an unintentionally delayed benefit claim is unnecessary in the present circumstances. The petition is therefore appropriately dismissed as moot.

The $1,410 petition fee filed by petitioner with respect to the present petition will be refunded to Deposit Account No. 07-1392.

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

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OFFICE OF PETITIONS

In re Application of

Sreenivasa Gorti et al
Application No. 11/400,345
Filed: April 6, 2006
Attorney Docket No. LB2125 (7785-531)

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed December 8, 2010.

The request is **NOT APPROVED**.

A review of the file record indicates that Joseph P. Mehrle does not have power of attorney in this patent application nor is there any statement or evidence of record of employment in or otherwise being engaged in the proceedings in this patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

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

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

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Joseph P. Mehrle
1600 TCF Tower
121 South 8th Street
Minneapolis, MN 55402

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Decision Date : May 24,2011

In re Application of :

Yerramilli Murthy

Application No : 11400384

Filed : 10-Apr-2006

Attorney Docket No : 027585-001802US

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 May 24,2011

The request is **APPROVED.**

The request was signed by John McGroarty (registration no. 41186) on behalf of all attorneys/agents associated with Customer Number 20350 . All attorneys/agents associated with Cusotmer Number 20350 have been withdrawn.

Since there are no remaining attorneys of record, all future communications from the Office will be directed to the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71, with correspondence address:

Name	IDEXX Laboratories, Inc.
Name2	
Address 1	One IDEXX Drive
Address 2	
City	Westbrook
State	ME
Postal Code	04092
Country	US

As a reminder, requester is required to inform the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71 of the electronically processed petition.

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

Office of Petitions

Doc Code: PET.AUTO **Document Description: Petition automatically granted by EFS-Web**	PTO/SB/83 U.S. Patent and Trademark Office Department of Commerce

Electronic Petition Request	**REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS**
Application Number	11400384
Filing Date	10-Apr-2006
First Named Inventor	Yerramilli Murthy
Art Unit	1616
Examiner Name	LUKE KARPINSKI
Attorney Docket Number	027585-001802US
Title	Pharmaceutical compositions for the administration of aptamers

◉ Please withdraw me as attorney or agent for the above identified patent application and the practitioners of record associated with Customer Number: 20350

The reason(s) for this request are those described in 37 CFR:

10.40(b)(4)

Certifications

☒ I/We have given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intend to withdraw from employment

☒ I/We have delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled

☒ I/We have notified the client of any responses that may be due and the time frame within which the client must respond

Change the correspondence address and direct all future correspondence to the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71:

Name	IDEXX Laboratories, Inc.
Address	One IDEXX Drive
City	Westbrook
State	ME
Postal Code	04092
Country	US

I am authorized to sign on behalf of myself and all withdrawing practitioners.	
Signature	/John McGroarty/
Name	John McGroarty
Registration Number	41186

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4417 LANCASTER PIKE
WILMINGTON, DE 19805

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JAN 20 2012
OFFICE OF PETITIONS

In re Application of Chapman et al. :
Application No. 11/400,428 : Decision on Petition
Filing Date: April 6, 2006 :
Attorney Docket No. CL2931USCIP :

This is a decision on the petition under 37 CFR 1.137(b) filed December 8, 2011, which requests revival of the application.

The petition is **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the final Office action mailed issued May 10, 2011, which set a shortened statutory period for reply of three (3) months. An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, the above-identified application became abandoned on August 11, 2011. The Office issued Notice of Abandonment on November 23, 2011.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed,
(2) The petition fee, and
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.[1]

The petition satisfies the requirements of 37 CFR 1.137(b) in so far as petitioner has supplied (1) a reply in the form of a notice of appeal and amendment, (2) the required petition fee of $1,860, and (3) the required statement of unintentional delay. Therefore, the petition is granted and the application is revived.

[1] A terminal disclaimer is also necessary if the application is a design application or if the application was filed on or before June 8, 1995.

The petition includes a notice of appeal. In order to be timely, any appeal brief must be filed within two months of the mailing date of the instant decision. The two-month period file the brief may be extended pursuant to 37 CFR 1.136(a).

Technology Center Art Unit 1777 will be informed of the instant decision and the examiner will review the amendment filed December 8, 2011, in due course.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:	
Jarosch et al.	:	
Application No. 11/400,459	:	DECISION ON PETITION
Filed: April 7, 2006	:	
Attorney Docket No. 021315-08740402	:	

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a proper and timely manner to the Notice of Non-Compliant Amendment mailed November 17, 2009, which set a period for reply of one (1) month or thirty (30) days, whichever is longer. A five-month extension of time under the provisions of 37 CFR 1.136(a) was timely obtained. Accordingly, the above-identified application became abandoned on May 18, 2010. A Notice of Abandonment was mailed July 21, 2010.

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

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

The application file is being referred to Technology Center AU 1634 for appropriate action on the concurrently filed amendment.

Joan Olszewski

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

Attorney Docket Number: UOM0348PUSP	Patent Number: 7662746
Filing Date (or 371(b) or (f) Date): Apr-07-2006	Issue Date: Feb-16-2010
First Named Inventor: CHEN, BANGLIN	
Title: HIGH GAS ADSORPTION IN A MICROPOROUS METAL-ORGANIC FRAMEWORK WITH OPEN-METAL SITES	

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 E Nemazi/	Date 13-Aug-2010
Name (Print/Typed) John E. Nemazi	Registration Number 30,876

***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

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1000 TOWN CENTER
TWENTY-SECOND FLOOR
SOUTHFIELD, MI 48075

Mail Date: 08/19/2010

Applicant	: Omar M. Yaghi	: DECISION ON REQUEST FOR
Patent Number	: 7662746	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/400,478	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/07/2006	: 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.

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Fish & Richardson PC
P.O.Box 1022
Minneapolis MN 55440

In re Patent of Yang et al.	
Patent No. 8,023,517	DECISION ON REQUEST FOR
Issue Date: September 20, 2011	RECONSIDERATION OF
Application No. 11/400,479	PATENT TERM ADJUSTMENT
Filed: April 5, 2006	
Attorney Docket No. 26310-0166001 / 755333	
Title: SYSTEM AND METHOD FOR IMPROVING NETWORK PERFORMANCE AND SECURITY BY CONTROLLING TOPOLOGY INFORMATION	

This is a decision on the petition filed on November 18, 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 five hundred sixty-eight (568) days.

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

BACKGROUND

On September 20, 2011, the above-identified application matured into U.S. Patent No. 8,023,517, with a revised patent term adjustment of 435 days. On November 18, 2011, patentees timely submitted this request for reconsideration of patent term adjustment (with required fee), asserting that the correct number of days of Patent Term Adjustment is 568.

Patentees argue the Office miscalculated the period of reduction pursuant to 37 CFR 1.704(b) associated with the filing of a reply on September 28, 2009 to a June 26, 2009 non-final Office

action. Patentees argue the period of reduction should be zero days, rather than two days.

In addition, patentees assert the Office incorrectly calculated Office delay pursuant to 37 CFR 1.702(b). Patentees contend 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, Patentees argue that (after the filing of numerous requests for continued examination) the Office mailed a Notice of Allowance on May 12, 2011, thereby closing examination of the application on that date. Thus, Patentees argue no continued examination took place during the 131 day period from May 12, 2011 (the mailing date of the Notice of Allowance) until September 20, 2011 (the date the patent was issued). As such, Patentees maintain that the "B delay" should include the 131 days and be increased from 22 to 153 days.

Patentees conclude that the correct patent term adjustment is 568 days (the sum of 483 days of "A delay" and 153 days of "B delay" minus 68 days of Applicant delay).

RELEVANT STATUTE AND REGULATIONS WITH RESPECT TO B DELAY ARUGMENT

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

Patentees' arguments with respect to the B delay calculation 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 22 days based on the application having been filed under 35 U.S.C. 111(a) on April 5, 2006 and the patent not having issued as of the day after the three year date, April 6, 2009, and the first request for continued examination under 132(b) having been filed on April 28, 2009. In other words, the 131 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

[1] Pursuant to 35 U.S.C. 132(b) , 37 CFR 1.114 provides for continued examination of an application, as follows:

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. Patentees do not dispute that time consumed by continued examination of an application under 35 U.S.C. 132(b) is properly excluded and that the calculation of the excluded period begins on the date of filing of the request for continued examination. At issue is what further processing or examination beyond the date of filing of the request for continued examination is 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.

(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.

Patentees' argument that the period of time after the issuance of a notice of allowance on a request for continued examination is not "any time consumed by continued examination requested by the applicant under section 132(b)" within the meaning of 35 U.S.C. 154(b)(1)(B)(i) is not availing. This limitation is not supported by the statutory language. Garcia v. United States, 469 U.S. 70, 75 (1984) ("only the most extraordinary showing of contrary intentions from [legislative history] would justify a limitation on the 'plain meaning' of the statutory language"). BP Am. Prod. Co. v. Burton, 549 U.S. 84, 91 (2006) ("Unless otherwise defined, statutory terms are generally interpreted in accordance with their ordinary meaning"). The statute provides for a guarantee of no more than 3-year application pendency, by providing for an adjustment in the patent term:

First, "Subject to the limitations of paragraph (2)," means that the limitations of paragraph 2 apply to this paragraph's adjustment of patent term. That is, the day-to-day extension of patent term for pendency beyond the 3 year period is restricted as follows: 1) "B delay" cannot accrue for days of "A delay" that overlap, 2) the patent term cannot be extended beyond disclaimed term, and 3) the period of adjustment, including accrued "B delay," will be reduced for applicant delay.

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

Third, "not including- (i) any time consumed by continued examination of the application requested by the applicant under section 132(b); (ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or (iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by

the applicant except as permitted by paragraph (3)(C), meaning that the three-year period does not include "any time consumed by" or "any delay in processing," as specified in clauses (i)-(iii). This language correlates to 35 U.S.C. 154(b)(1)(A) which likewise provides the basis for determining the period given the Office to take the specified actions before an adjustment will accrue for "A delay" (e.g., extended for 1 day after the day after the period specified in clauses (i)-(iv)).

Furthermore, these clauses are interpreted using their ordinary meanings. Nonetheless, the context of the legislation should be considered. As stated in Wyeth v. Dudas, 580 F.Supp.2d 138 (D.D.C., September 30, 2008), because the clock for calculating the 20-year patent term begins to run on the filing date, and not on the day the patent is actually granted, some of the effective term of a patent is consumed by the time it takes to prosecute the application. To mitigate this effect, the statute, *inter alia*, grants adjustments of patent term whenever the patent prosecution takes more than three years, regardless of the reason. The time consumed by prosecution of the application includes every day the application is pending before the Office from the actual filing date of the application in the United States until the date of issuance of the patent. The time it takes to prosecute the application ends not with the mailing of the notice of allowance, but with the issuance of the patent.

Thus, not including "any time consumed by" means not including any days used to prosecute the application as specified in clauses (i)-(ii)[2]. Clause (i) specifies "any time consumed by continued examination of the application requested by the applicant under section 132(b)." Clause (ii) specifies "any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court." "Time" in the context of this legislation throughout refers to days. "Consumed by" means used by or used in the course of. *Websters Collegiate Dictionary*, (11th ed.). The "any" signifies that the days consumed by are "any" of the days in the pendency of the

[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.

application, and not just days that occur after the application has been pending for 3 years. As such, "any time consumed by" refers to any days used in the course of 1) continued examination of the application under section 132(b)(the filing of a request for continued examination), 2) interference proceedings, 3) secrecy orders, and 4) appellate review. Thus, that 3-year period given to the Office to issue a patent before an adjustment will accrue for "B delay" does not include any days used in the course of or any time consumed by clauses (i)-(ii), including any time consumed by the filing of a request for continued examination.

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

The "time consumed by" or used in the course of the continued examination of the application requested by the applicant under section 132(b) does not end until issuance of the patent. 35 U.S.C. 132(b) was enacted under the same title, the "American Inventors Protection Act of 1999," as 35 U.S.C. 154(b). Section 4403 of the AIPA amended 35 U.S.C. § 132 to provide, at the request of the applicant, for continued examination of an application for a fee (request for continued examination or RCE practice), without requiring the applicant to file a continuing application under 37 CFR 1.53(b) or a continued prosecution application (CPA) under 37 CFR 1.53(d). Thus, clause (i) is different from clause (ii) in that clause (i) refers to an examination process whereas clause (ii) refers to time consumed by proceedings (interferences, secrecy orders and appeals) in an application.

By nature, the time used in the course of the examination process continues to issuance of the patent. The examination process involves examining the application to ascertain whether it appears that the applicant is entitled to a patent under the law. See 35 U.S.C. 131 ("[t]he Director shall cause an examination to be made of the application and the alleged new invention; and if on such examination it appears that the applicant is entitled to a patent under the law, the Director shall issue a patent therefor"). If on examination it appears that the applicant is entitled to a patent, the USPTO issues a notice of allowance. See 35 U.S.C. 151 ("[i]f it appears that applicant is entitled to a patent under the law, a written

notice of allowance of the application shall be given or mailed to the applicant"). If on examination it appears that the applicant is not entitled to a patent, the USPTO issues a notice (an Office action) stating the applicable rejection, objection, or other requirement, with the reasons therefor. See 35 U.S.C. 132 ("[w]henever, on examination, any claim for a patent is rejected, or any objection or requirement made, the Director shall notify the applicant thereof, stating the reasons for such rejection, or objection or requirement, together with such information and references as may be useful in judging of the propriety of continuing the prosecution of his application"). Neither the issuance of a notice of allowance nor the insurance of an Office action terminates the examination process. If after the issuance of an Office action under 35 U.S.C. 132 it subsequently appears that the applicant is entitled to a patent (e.g., in response to an argument or amendment by the applicant), the USPTO will issue a notice of allowance. Conversely, if after the issuance of a notice of allowance under 35 U.S.C. 151 it subsequently appears that the applicant is not entitled to a patent (e.g., in response to information provided by the applicant or uncovered by the USPTO), the USPTO will withdraw the application from issuance and issue an Office action under 35 U.S.C. 132 stating the applicable rejection, objection, or other requirement, with the reasons therefor.

As held in Blacklight Power, the USPTO's responsibility to issue a patent containing only patentable claims does not end with the issuance of a notice of allowance under 35 U.S.C. 151. See BlackLight Power, Inc. v. Rogan, 295 F.3d 1269, 1273 (Fed. Cir. 2002). Rather, if there is any substantial, reasonable ground within the knowledge or cognizance of the Director as to why an application should not issue, it is the USPTO's duty to refuse to issue the patent even if a notice of allowance has previously been issued for the application. See In re Drawbaugh, 9 App. D.C. 219, 240 (D.C. Cir 1896).

Moreover, the applicant continues to be engaged in the examination process after the mailing of the notice of allowance. 37 CFR 1.56 makes clear that the applicant has a duty to disclose information material to patentability as long as the application is pending before the USPTO (i.e., until a patent is granted or the application is abandoned). See 37 CFR 1.56(a) ("[t]he duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned"). 37 CFR 1.97 and 1.98 provide for the consideration of information submitted by the applicant after a notice of allowance has been

mailed. See 37 CFR 1.97(d). In addition, 37 CFR 1.312 provides for the amendment of an application after a notice of allowance has been mailed. In fact, the request for examination procedures[3] permit the filing of a request for continued examination under 37 CFR 1.114 even after the issuance of a notice of allowance under 35 U.S.C. 151. See 37 CFR 1.114(a)(1).

As the examination process does not terminate with the mailing of the notice of allowance, the time consumed by continued examination requested by the applicant under section 132(b) does not terminate with the mailing of the notice of allowance. All the time the application is pending from the date of filing of the request for continued examination to the mailing of the notice of allowance through issuance of the patent is a consequence of the filing of the request for continued examination. Further action by the Office is pursuant to that request. Applicant has gotten further prosecution of the application without having to file a continuing application under 37 CFR 1.53(b).

All of the continued examination pursuant to the filing of the request by the applicant is properly excluded from the delay attributed to the Office. 35 U.S.C. 154(b)(1)(B)'s guarantee of a total application pendency of no more than three years provides for adjustment of the patent term for delay due to the Office's 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, the first request for continued examination was filed on April 28, 2009, and the patent issued by virtue of that (and subsequent) requests on September 20, 2011. Pursuant to 35 U.S.C. 154(b)(1)(B)(i), the period beginning on May 12, 2011 and ending on September 20, 2011 is not included in calculating Office delay.

Patentees argue the Office miscalculated the period of reduction pursuant to 37 CFR 1.704(b) associated with the filing of a reply on September 28, 2009.

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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.

37 CFR 1.705(d), provides that:

> If there is a revision to the patent term adjustment indicated in the notice of allowance, the patent will indicate the revised patent term adjustment. If the patent indicates or should have indicated a revised patent term adjustment, any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued and must comply with the requirements of paragraphs (b)(1) and (b)(2) of this section. Any request for reconsideration under this section that raises issues that were raised, or could have been raised, in an application for patent term adjustment under paragraph (b) of this section shall be dismissed as untimely as to those issues.

A patentee is not permitted to raise an issue that could have been raised in an application for patent term adjustment under 37 CFR 1.705(b) in any post patent grant petition. If patentees did not agree with the length of the period of reduction pursuant to 37 CFR 1.704(b) associated with the filing of a reply on September 28, 2009, the appropriate time to contest it would have been after the Notice of Allowance was mailed and prior to payment of the issue fee. It should have been brought up in a petition under 37 CFR 1.705(b). No change will be made

CONCLUSION

In light thereof, the correct patent term adjustment remains 435 days, which is the sum of 483 days of delay under 35 U.S.C. 154(b)(1)(A) and 22 days of B Delay, minus 70 days of Applicant delay.

The Office acknowledges receipt of the required $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) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 9/2/2011

TO SPE OF : ART UNIT 2626 Dorvil Richemond (SPE)

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/400493 Patent No.: 7956844

CofC mailroom date: 8/23/2011

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Note: _____

_____

Certificates of Correction Branch

571-272-8680 _____

Thank You For Your Assistance

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

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

Comments: _____

/Richemond Dorvil/ — **SPE**

2626 — **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

Patent No. 7,622,101 B2
Ser. No. : 11/400,571
Inventor(s) : Doucette et al...
Issued : Nov.24, 2009
Title : DEVELOPMENTAL ANIMAL MODEL OF TEMPORAL LOBE EPILEPSY
Docket No. : 03217/3762-001US
Re: Request for Certificate of Correction

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

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

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

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

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

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

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

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

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

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

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20120326

DATE : April 6, 2012

TO SPE OF : ART UNIT 1638

SUBJECT : Request for Certificate of Correction on Patent No.: 7,700,842

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

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-910
Palm location **7590** - Tel. No. 305-8201

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

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

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

☒ **Approved** **All** changes apply.

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

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

Comments:

Error Attributable to Office, COC filed on 2 February 2012.

SPE: /Anne Marie Grunberg/ **Art Unit** 1638

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20120326

DATE : April 9, 2012

TO SPE OF : ART UNIT 1638

SUBJECT : Request for Certificate of Correction on Patent No.: 7,700,842

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

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-910
Palm location **7590** - Tel. No. 305-8201

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

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

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

☒ **Approved** **All** changes apply.

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

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

Comments:

Error Attributable to Office, COC filed on 2 February 2012.

SPE: Anne Marie Grunberg **Art Unit** 1638

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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OFFICE OF PETITIONS

MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH NC 27627

In re Application of
Cumming, et al.
Application No.: 11/400,689
Filed: April 7, 2006
Attorney Docket No.9701-6IP

:
:DECISION ON APPLICATION
:FOR ADJUSTMENT
:PATENT TERM ADJUTSMENT
:

This is in response to the "Application for Revision of Patent Term Adjustment" filed April 5, 2010. Applicants request that the initial Determination of Patent Term Adjustment under 35 U.S.C. 154(b) be corrected from one hundred and forty-five (145) days to two hundred and seventeen (217) days.

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

The Office has updated the PALM and PAIR screens to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is one hundred and sixty-two (162) days. A copy of the updated PALM screen, showing the corrected determination, is enclosed.

On March 29, 2010, a Determination of Patent Term Adjustment under 35 U.S.C. 154(b) was mailed indicating that the patent term adjustment to date was 145 days. On April 5, 2010, applicants submitted the instant petition. Applicants assert the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) mailed March 29, 2010, is incorrect. Specifically, applicants dispute the reduction to the patent term adjustment of 142 days and 80 days pursuant to 37 CFR 1.704(c)(8). Applicants further state that and additional reduction to the patent term adjustment pursuant to 37 CFR 1.704(b) of 35 days is warranted.

As to entry of an additional period of reduction to the patent term adjustment of 35 days, the application history has been reviewed and it has been determined that applicants should have been assessed a delay under 37 CFR 1.704(b)[1] for filing a reply

[1] 37 CFR 1.704(b) states:

in excess of the three month period from the May 10, 2006, mailing date of the "Notice to File Missing Parts of Non-Provisional Application". On May 10, 2006, a "Notice to File Missing Parts of Non-Provisional Application" was mailed. On September 14, 2006, applicants filed a response to the "Notice to File Missing Parts of Non-Provisional Application". Thus, applicant failed to engage in reasonable efforts to conclude processing or examination of this application. Accordingly, the period of adjustment set forth in § 1.703 should have been reduced under 37 CFR 1.704(b) by 35 days, the number of days in the period beginning on the day after the date that is three months after the date of mailing of the "Notice to File Missing Parts of Non-Provisional Application", August 11, 2006, and ending on the date the reply was filed, September 14, 2006. **A period of reduction of 35 days will be entered.**

Applicants dispute the reduction of one hundred forty-two (142) days for filing of a supplemental reply on October 1, 2009, after a reply had been filed. See 37 C.F.R. § 1.704(c)(8)[2]. Applicants contend that they submitted the supplemental reply on October 1, 2009 at the request of the examiner.

> 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.

[2] 37 CFR § 1.704(c)(8) states:

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

Applicants' contention is well taken. The record supports a conclusion that the supplemental reply filed October 1, 2009, was expressly requested by the examiner within the meaning of 37 CFR 1.704(c)(8). **Accordingly, the reduction of 142 days is not warranted and is being removed. However, a reduction to the patent term adjustment of 90 days will be entered for the filing of a supplemental reply on August 10, 2009, after an initial reply was filed May 12, 2009.** It is noted that applicants indicate that the period of reduction should be 115 days. The period of reduction, pursuant to 37 CFR 1.704(c)(8) is 90 days with said period beginning on the day after the date the initial reply was filed May 13, 2009, and ending on the date the supplemental paper was filed, August 10, 2009.

As to applicants argument that 80 days of reduction to the patent term adjustment is unwarranted, it is noted that on March 4, 2010, applicants submitted a supplemental reply or paper in the form of a Supplemental Information Disclosure Statement (IDS) after filing a reply to a restriction requirement on December 14, 2009. The record does not support a conclusion that the examiner expressly requested the filing of the IDS. Further, a review of the IDS, filed March 4, 2010 reveals that applicants did not include a statement under 37 CFR 1.704(d).[2] It is noted that the transmittal letter that accompanied the IDS did not have the appropriate box checked denoting that the statement under 37 CFR 1.705(d) applied to the IDS filed March 4, 2010. Thus, applicant failed to engage in reasonable efforts to conclude prosecution of the application. Accordingly, the period of adjustment was properly reduced by 80 days pursuant to 37 CFR 1.704(c)(8). **Accordingly, the period of reduction of 80 days will not be removed.**

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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.

In view thereof, the determination of the patent term adjustment at the time of the mailing of the notice of allowance mailed March 29, 2010, is one hundred and sixty-two (162) 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).

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

The application is being directed to Technology Center, GAU 1639 to await action on the Request for Continued Examination filed July 12, 2010.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PALM screen

Patent Term Adjustments

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

Application Number*: 11400689 Search | Explanation of PTA Calculation | Explanation of PTE Calculation

PTA Calculations for Application: 11400689

Application Filing Date	04/07/2006	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	474
A Delays	474	PTO Manual Adjustment	17
B Delays	0	Applicant Delay (APPL)	329
C Delays	0	Total PTA (days)	162

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
101	09/07/2010		P028	Adjustment of PTA Calculation by PTO	17		0
81	03/29/2010		MN/=.	Mail Notice of Allowance			0
80	03/27/2010		IREV	Issue Revision Completed			0
77	03/05/2010		ACRE	Allowed Case Returned to the Examiner for Clerical Processing			0
76	03/05/2010		DVER	Document Verification			0
75	03/05/2010		N/=.	Notice of Allowance Data Verification Completed			0
74	03/05/2010		DOCK	Case Docketed to Examiner in GAU			0
71	03/05/2010		EX.A	Examiner's Amendment Communication			0
79	03/04/2010		IDSC	Information Disclosure Statement considered			0
73	03/04/2010	12/14/2009	M844	Information Disclosure Statement (IDS) Filed		80	67
72	03/04/2010		WIDS	Information Disclosure Statement (IDS) Filed			0
70	03/01/2010		CNTA	Notice of Allowability			0
68	12/17/2009		FWDX	Date Forwarded to Examiner			0
67	12/14/2009		ELC.	Response to Election / Restriction Filed			0
66	12/09/2009	09/12/2009	MCTRS	Mail Restriction Requirement	88		46
65	12/07/2009		CTRS	Requirement for Restriction / Election			0
61	10/27/2009		P574	Paralegal TD Accepted			0
60	10/27/2009		P574	Paralegal TD Accepted			0
57	10/02/2009		FWDX	Date Forwarded to Examiner			0
59	10/01/2009	05/12/2009	DIST	Terminal Disclaimer Filed		142	46
58	10/01/2009		DIST	Terminal Disclaimer Filed			0
56	10/01/2009		SA..	Supplemental Response			0
51	09/07/2009		FWDX	Date Forwarded to Examiner			0
64	09/04/2009		IDSC	Information Disclosure Statement considered			0
55	09/04/2009		RCAP	Reference capture on IDS			0
54	09/04/2009		M844	Information Disclosure Statement (IDS) Filed			0
49	09/04/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
63	08/10/2009		IDSC	Information Disclosure Statement considered			0
53	08/10/2009		RCAP	Reference capture on IDS			0
52	08/10/2009		M844	Information Disclosure Statement (IDS) Filed			0
50	08/10/2009		SA..	Supplemental Response			0
48	08/10/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
47	06/30/2009		FWDX	Date Forwarded to Examiner			0
41	05/18/2009		P574	Paralegal TD Accepted			0
69	05/12/2009		IDSC	Information Disclosure Statement considered			0
62	05/12/2009		IDSC	Information Disclosure Statement considered			0
46	05/12/2009		A...	Response after Non-Final Action			0
45	05/12/2009		RCAP	Reference capture on IDS			0
44	05/12/2009		M844	Information Disclosure Statement (IDS) Filed			0
43	05/12/2009		AF/D	Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received			0
42	05/12/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
40	05/12/2009		DIST	Terminal Disclaimer Filed			0
39	05/12/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
38	02/12/2009		MCTNF	Mail Non-Final Rejection			0
37	02/11/2009		CTNF	Non-Final Rejection			0
35	02/04/2009		PA..	Change in Power of Attorney (May Include Associate POA)			0
33	02/04/2009		C.AD	Correspondence Address Change			0
31	12/05/2008		FWDX	Date Forwarded to Examiner			0
30	11/06/2008	07/22/2008	ELC.	Response to Election / Restriction Filed		107	27
29	10/06/2008		NINA	Mail Notice of Informal or Non-Responsive Amendment			0
28	07/25/2008		FWDX	Date Forwarded to Examiner			0
27.1	07/22/2008		A.I.	Informal or Non-Responsive Amendment after Examiner Action			0
27	07/22/2008		ELC.	Response to Election / Restriction Filed			0
26	06/27/2008	06/07/2007	MCTRS	Mail Restriction Requirement	386		-1
25	06/23/2008		CTRS	Requirement for Restriction / Election			0

36	01/11/2008	IDSC	Information Disclosure Statement considered	0
24	01/11/2008	RCAP	Reference capture on IDS	0
23	01/11/2008	M844	Information Disclosure Statement (IDS) Filed	0
22	01/11/2008	WIDS	Information Disclosure Statement (IDS) Filed	0
21	12/12/2007	DOCK	Case Docketed to Examiner in GAU	0
20	08/25/2007	TSSCOMP	IFW TSS Processing by Tech Center Complete	0
19	08/23/2007	PG-ISSUE	PG-Pub Issue Notification	0
18	06/04/2007	OIPE	Application Dispatched from OIPE	0
17	05/17/2007	PGPC	Sent to Classification Contractor	0
16	05/17/2007	COMP	Application Is Now Complete	0
10	04/27/2007	MPTGR	Mail-Petition Decision - Granted	0
9	02/07/2007	PET.	Petition Entered	0
8	12/15/2006	MPTDI	Mail-Petition Decision - Dismissed	0
7	09/14/2006	PET.	Petition Entered	0
11	07/27/2006	ADDFLFEE	Additional Application Filing Fees	0
6	07/27/2006	OATHDECL	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic	0
5	05/10/2006	INCD	Notice Mailed--Application Incomplete--Filing Date Assigned	0
3	04/27/2006	L194	Cleared by OIPE CSR	0
2	04/21/2006	SCAN	IFW Scan & PACR Auto Security Review	0
1	04/07/2006	IEXX	Initial Exam Team nn	0

Export to: Excel

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FULBRIGHT & JAWORSKI, L.L.P.
600 CONGRESS AVE.
SUITE 2400
AUSTIN, TX 78701

MAILED

DEC 14 2010

OFFICE OF PETITIONS

In re Application of	:
Frederick R. Blattner, et. al.	:
Application No. 11/400,711	: DECISION ON PETITIONS
Filed: April 7, 2006	: UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No.	:
WARF:028US/10604969	:

This is a decision on the renewed petition under 37 CFR 1.78(a)(6) filed September 1, 2010, which is being treated as petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) to accept an unintentionally delayed claim under 35 U.S.C. §§120, 365(c) and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

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

(1) the reference required by 35 U.S.C. §§ 120, 365(c) and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

All the above requirements having been satisfied, the petitions are **granted**.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §§120, 365(c) and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

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

This application is being forwarded to Technology Center Art Unit 1636 for consideration by the examiner of the claim under 35 U.S.C. §§ 120, 365(c) and 119(e) of the prior-filed applications.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3226. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Andrea Smith
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/400,711	04/07/2006	1636	615	WARF:028US/10604969	22	1

CONFIRMATION NO. 3094

CORRECTED FILING RECEIPT

32425
FULBRIGHT & JAWORSKI L.L.P.
600 CONGRESS AVE.
SUITE 2400
AUSTIN, TX 78701

OC000000044783829

Date Mailed: 12/03/2010

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

Applicant(s)

Frederick R. Blattner, Madison, WI;
John W. Campbell, Oak Park, IL;
David Frisch, Fitchburg, WI;
Guy Plunkett III, Madison, WI;
Gyorgy Posfai, Szeged, HUNGARY;

Power of Attorney: The patent practitioners associated with Customer Number 32425

Domestic Priority data as claimed by applicant

This application is a CIP of 11/275,094 12/09/2005
which claims benefit of 60/634,611 12/09/2004
and is a CIP of 10/896,739 07/22/2004 ABN
which is a CON of PCT/US03/01800 01/22/2003
which claims benefit of 60/409,080 09/09/2002
and is a CIP of 10/057,582 01/23/2002 PAT 6,989,265

Foreign Applications

If Required, Foreign Filing License Granted: 05/18/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/400,711**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Insertion sequence-free bacteria

Preliminary Class

257

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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SEP 20 2010
OFFICE OF PETITIONS

In re Application of
Brian D. Busch et al.
Application No. 11/400,734
Filed: April 6, 2006
Attorney Docket No. 069532-0304
(ZINK-A-8606/AFP/US)

: DECISION ON APPLICATION
:FOR PATENT TERM ADJUSTMENT

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT FOR PATENT APPLICATION UNDER 37 C.F.R. §1.705(b)," filed June 3, 2010. Applicants request that the patent term adjustment at the time of the mailing of the Notice of Allowance be corrected from eighty-three (83) days to one hundred seventy (170) days. Applicant requests this correction in part on the basis that the Office will take in excess of three years to issue this patent and is considered in light of the recent court decision in light of the Court of Appeals for the Federal Circuit's decision in *Wyeth v. Kappos*, 2009-1120 (Fed. Cir. 1-7-2010).

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

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentees are entitled to for Office failure to issue the patent within three years. See 37 CFR 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under 37 CFR 1.702(a)(4) or applicant delay under 37 CFR 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the patent term adjustment relating to those provisions until the patent has issued.

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

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

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

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

On March 5, 2010, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 83 days. The instant application for patent term adjustment was timely filed[2]. Applicants dispute the reduction of 53 days of PTA for applicant delay in filing an Information Disclosure Statement (IDS) on February 1, 2010 after the filing of a response to a non-final Office Action on December 10, 2009.

A review of the record reveals that on December 10, 2009 applicants filed a response to the non-final Office action mailed June 10, 2009 with a three month extension of time. Then on February 1, 2010, applicants filed the Information Disclosure Statement (IDS).

---

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

[2] PALM records indicate that the Issue Fee was also received on June 3, 2010.

37 CFR 1.704 (c) provides that:

> Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:
>
> (8) Submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the initial reply was filed and ending on the date that the supplemental reply or other such paper was filed;
>
> However, 37 CFR 1.704(d) provides that:
>
> A paper containing only an information disclosure statement in compliance with §§ 1.97 and 1.98 will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under paragraphs (c)(6), (c)(8), (c)(9), or (c)(10) of this section if it is accompanied by a statement that each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in § 1.56(c) more than thirty days prior to the filing of the information disclosure statement. This thirty-day period is not extendable.

In this instance, the filing of the Supplemental Information Disclosure Statement on February 1, 2010 is considered a failure to engage under 37 CFR 1.704(c)(8). The IDS was not expressly requested by the examiner and while the IDS included a 37 CFR 1.704(d) statement, it did not include a proper statement as it did not track the required language of §1.704(d) .

The required statement states, in pertinent part, 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.

Applicants are reminded that § 1.704(d) was revised, effective May 24, 2004. This revision requires that the statement include the language "each item of information

contained in the information disclosure statement was first cited ..." for the exception to apply. See 69 FR 21704, Apr. 22, 2004. Moreover, the statement among other things must state that the IDS was first cited in "any" communication, not a communication. As the statement was not proper, entry of the reduction of 37 days was warranted and will not be removed.

In view thereof, the determination of patent term adjustment at the time of the mailing of the notice of allowance remains 83 days.

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

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

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

Anthony Knight
Director
Office of Petitions

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210 SW MORRISON STREET, SUITE 400
PORTLAND OR 97204

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APR 21 2011
OFFICE OF PETITIONS

In re Application of :
Tod F. Schiff et al :
Application No. 11/400,749 : DECISION ON REQUEST FOR REFUND
Filed: April 6, 2006 :
Attorney Docket No. 1482-201 :

This is a decision on the Request For Refund filed, April 5, 2011.

The request is **GRANTED**.

Applicants seeks a refund of the petition fee paid on September 23, 2010, under 37 C.F.R. §1.182. The petition was treated as a petition requesting review of the examiner's action under 37 C.F.R. §1.181. No fee is required.

In view of the above, the $400.00 petition fee paid on September 23, 2010, is being credited to petitioner's credit card account is it is the method in which the fee was paid.

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

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

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GUERIN & RODRIGUEZ, LLP
5 MT. ROYAL AVENUE
MARLBOROUGH MA 01752

MAILED

AUG 25 2010

OFFICE OF PETITIONS

In re Application of	:	
Ravi Ravindran et al.	:	DECISION ON PETITION
Application No. 11/400,755	:	TO WITHDRAW
Filed: April 7, 2006	:	FROM RECORD
Attorney Docket No. AVA-122 (17252ROUS02U)	:	

This is a decision on the request to withdraw as attorney of record under 37 CFR § 1.36(b), filed June 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 Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond , pursuant to 37 CFR 10.40.

The request was signed by Stanley Hill, Esq. on behalf of himself who is associated with the above-identified application.

The attorney/agent (Stanley K. Hill) is hereby withdrawn.

All future communications from the Office will continue to be directed to the address of record until otherwise properly notified by the 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

cc: **Stanley K. Hill**
5950 Grand Pavilion Way, #311
Alexandria, VA 22303

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GUERIN & RODRIGUEZ, LLP
5 MOUNT ROYAL AVENUE
MOUNT ROYAL OFFICE PARK
MARLBOROUGH, MA 01752

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OFFICE OF PETITIONS

In re Application of
Ravindran et al.
Application No. 11/400,755
Filed: April 7, 2006
Attorney Docket No. AVA-122
(17252ROUS02U)

DECISION ON PETITION

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed December 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 March 3, 2010. A Notice of Abandonment was mailed August 11, 2010.

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

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

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence

regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

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

This application is being referred to Technology Center AU 2466 for appropriate action by the Examiner in the normal course of business on the reply received October 28, 2010.

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

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

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CHAPIN INTELLECTUAL PROPERTY LAW, LLC
WESTBOROUGH OFFICE PARK
1700 WEST PARK DRIVE, SUITE 280
WESTBOROUGH MA 01581

MAILED
SEP 30 2011
OFFICE OF PETITIONS

In re Application of	:	
Ravindran et al.	:	DECISION DISMISSING
Application No. 11/400,755	:	PETITION UNDER
Filing Date: April 7, 2006	:	37 CFR § 1.183
Attorney Docket No.: AVA10-54	:	

This decision is in response to the petition, filed July 13, 2011, to waive of the requirements of 37 CFR 1.131 to the extent that it requires that all of the named inventors execute the declaration filed there under.

The petition is **DISMISSED**.

The application as-filed identified four inventors as the inventive entity: Ravi Ravindran (Ravindran), Donald Fedyk (Fedyk), Lakshminath Dondeti (Dondeti) and Hong Zhang (Zhang). Applicant filed a Combined Declaration of Joint Inventors Under 37 CFR 1.131, executed by only Ravindran, Fedyk and Dondeti.

Applicant files the present petition and states that the inventor Zhang is unavailable or refuses to sign the Declaration under 37 CFR 1.131.

MPEP 715.04, Swearing back of Reference, Affidavit or Declarant Under 37 CFR 1.131, provides

> The following parties may make an affidavit or declaration under 37 CFR 1.131:
> (A) All the inventors of the subject matter claimed.
> (B) An affidavit or declaration by less than all named inventors of an application is accepted where it is shown that less than all named inventors of an application invented the subject matter of the claim or claims under rejection. For example, one of two joint inventors is accepted where it is shown that one of the joint inventors is the sole inventor of the claim or claims under rejection.
> (C) If a petition under 37 CFR 1.47 was granted or the application was accepted under 37 CFR 1.42 or 1.43, the affidavit or declaration may be signed by the 37 CFR 1.47 applicant or the legal representative, where appropriate.
> (D) The assignee or other party in interest when it is not possible to produce the

affidavit or declaration of the inventor. Ex parte Foster, 1903 C.D. 213, 105 O.G. 261 (Comm'r Pat. 1903).

Affidavits or declarations to overcome a rejection of a claim or claims must be made by the inventor or inventors of the subject matter of the rejected claim(s), a party qualified under 37 CFR 1.42, 1.43, or 1.47, or the assignee or other party in interest when it is not possible to produce the affidavit or declaration of the inventor(s). Thus, where all of the named inventors of a pending application are not inventors of every claim of the application, any affidavit under 37 CFR 1.131 could be signed by only the inventor(s) of the subject matter of the rejected claims.

Where one or more of the named inventors of the subject matter of the rejected claim(s) (who had originally signed the oath or declaration for patent application under 37 CFR 1.63) is now unavailable to sign an affidavit or declaration under 37 CFR 1.131, the affidavit or declaration under 37 CFR 1.131 may be signed by the remaining joint inventors provided a petition under 37 CFR 1.183 requesting waiver of the signature of the unavailable inventor be submitted with the affidavit or declaration under 37 CFR 1.131. Proof that the non-signing inventor is unavailable or cannot be found similar to the proof required for a petition under 37 CFR 1.47 must be submitted with the petition under 37 CFR 1.183 (see MPEP § 409.03(d)). Petitions under 37 CFR 1.183 are decided by the Office of Petitions (see MPEP § 1002.02(b)).

MPEP 409.03(d) states:

Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 CFR 1.47, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made.
The fact that a nonsigning inventor is on vacation or out of town and is therefore temporarily unavailable to sign the declaration is not an acceptable reason for filing under 37 CFR 1.47.

Furthermore, the fact that an inventor is hospitalized and/or is not conscious is not an acceptable reason for filing under 37 CFR 1.47. 37 CFR 1.43 may be available under these circumstances. See MPEP § 409.02. Such a petition under 37 CFR 1.47 will be dismissed as inappropriate.

The statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as internet searches, certified mail return receipts, cover letters of instructions, telegrams, that support a finding that the nonsigning inventor could not be found or reached should be made part of the statement. The steps taken to locate the whereabouts of the nonsigning inventor should be included in the statement of facts. It is important that the statement contain facts as opposed to conclusions.

In discussing waiver requirements under 37 CFR 1.183, the Office is guided by proof similar to that required when an Applicant is unavailable. See MPEP 409.03(d), *supra*. In this instance, petitioner asserts that inventor Zhang is unavailable. However, the applicable statute (35 U.S.C. § 116) requires that a "diligent effort" have been expended in attempting to find or reach the non-signing inventor. See MPEP 409.03(a). The showing currently fails to demonstrate, with a documented showing, that a diligent effort was made to find or locate non-signing inventor Zhang, such that the declaration can be accepted. Where inability to find or locate a named inventor(s) is alleged, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made to locate the inventor.

Petitioner has not demonstrated that all efforts were expended in trying to locate inventor non-signing Zhang. Petitioner states, "Applicants' attorney sent to the last known address of Hong Zhang the papers by certified mail. A copy of the papers and the certified mail receipts are enclosed herewith. The papers were received and signed for when delivered to the last known address, however Hong Zhang has not signed and returned the papers after a period of four weeks." Although the papers were shown to be delivered to the last known address, there is no proof that inventor Zhang was the person who signed for and received them.

The statements of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein and should be accompanied by documentary evidence in support of the statement of facts. It is important that the forthcoming communication contain statements of fact as opposed to conclusions.

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

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

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

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

Telephone inquiries concerning this matter should be directed 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
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PERKINS COIE LLP
PATENT-SEA
P.O. BOX 1247
SEATTLE WA 98111-1247

MAILED
MAR 06 2012
OFFICE OF PETITIONS

In re Patent of Li et al. :
Patent No. 7,411,424 :
Issued: August 12, 2008 : NOTICE
Application Number: 11/400,924 :
Filed: April 10, 2006 :
Attorney Docket Number: 589848021US01

This is a notice regarding a request for acceptance of a fee deficiency submission under 37 CFR 1.28(c), filed on January 12, 2012.

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

While the petition asserts Lattice Semiconductor Corporation recently acquired the assignee of the above-identified patent, Office databases do not reflect that fact. Therefore, Mark L. Becker, acting in a representative capacity for Lattice Semiconductor Corporation has not established authority to change the entity status of the patent.

An appropriate document should be recorded with the Office and a 3.73(b) statement should be filed with any renewed request for acceptance of a fee deficiency.

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

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
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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FLYNN THIEL BOUTELL & TANIS, P.C.
2026 RAMBLING ROAD
KALAMAZOO MI 49008-1631

MAILED
JUN 30 2011
OFFICE OF PETITIONS

In re Patent No. 7,677,435 :
Issue Date: March 16, 2010 :
Application No. 11/401,034 :
Filed: April 10, 2006 :
Attorney Docket No. 5000.P0094US :

NOTICE

This is a notice regarding your request, May 4, 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
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MAILED
MAY 12 2011
OFFICE OF PETITIONS

DENNIS W. BEECH (LAW OFFICE OF DENNIS W. BEECH)
P.O. BOX 519
MURRIETA, CA 92564-0519

In re Application of Tom Jones Application No. 11/401,068 Filed: April 10, 2006 Attorney Docket No.: None	: : : : :	ON PETITION

This is a decision in response to the petition, filed April 4, 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 reply within the meaning of 37 CFR 1.113 to the final Office action of October 6, 2009. A Notice of Abandonment was mailed on April 28, 2010. On April 4, 2011, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of 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 3764 for appropriate action by the Examiner in the normal course of business on the reply received April 4, 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DENNIS W. BEECH
LAW OFFICES OF DENNIS W. BEECH
PO BOX 519
MURRIETS, CA 92564-0519

MAILED

OCT 24 2011

OFFICE OF PETITIONS

In re Application of

Tom Jones
Application No. 11/401,068
Filed: April 10, 2006
Attorney Docket No.

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 9, 2011.

The request is **NOT APPROVED**.

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

Petitioner should note that the Office will no longer accept address changes to a new practitioner of 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, the most current address information provided for the first named inventor.

Accordingly, since the request to withdraw from record does not include an acceptable current correspondence address for future communications from the Office, the request cannot be granted at the present time.

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FISH & RICHARDSON P.C. (BO)
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

MAILED
DEC 06 2011
OFFICE OF PETITIONS

In re Application of :
Weinberg et al. :
Application No. 11/401,106 :
Filed: April 10, 2006 :
Attorney Docket No.00633-061001 :
Title: MULTI-AXIS TILT :
ESTIMATION AND FALL REMEDIATION :
:

ON APPLICATION FOR
PATENT TERM ADJUSTMENT

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT INCLUDING REQUEST FOR RECONSIDERATION UNDER 37 C.F.R. § 1.705(b)," filed November 17, 2011. Applicants request that the determination of patent term adjustment be corrected from one hundred eighty-eight (188) days to one hundred eighty-six (186) days.

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

On August 24, 2011, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 186 days. The instant application for patent term adjustment was timely filed on November 17, 2011.

Applicants state that as intended by 35 U.S.C. §54(b)(2)(c)(ii), the three-month date should be calculated from August 10, 2009, instead of August 8, 2009 as August 8, 2009 and August 9, 2009 fall on a weekend. As such the response submitted on November 3, 2009 should be calculated as 85 days, not 87 days.

Applicants' argument has been considered but determined not to be persuasive. Pursuant to 35 U.S.C. § 154(b)(2)(C) and 37 CFR 1.704(b) the 87 days is correctly calculated. The

weekend/holiday exception does not apply to the period of applicant delay at issue. The Office action was mailed on May 8, 2009 with a shortened statutory period for reply of three (3) months, with extensions of time obtainable under 37 CFR 1.136(a). It is recognized that the three month deadline, August 8, 2009 ended on Saturday. However in this instance, applicants did not exercise the §21(b) weekend/holiday exception to file a timely response under §133 on the following business day. Applicant filed a response on November 3, 2009 with a three month extension of time. In other words, the reply filed November 3, 2009 was not timely filed pursuant to 35 U.S.C. §21(b). Thus the period of reduction was properly calculated as 87 days counting the number of days beginning on the day after the date that is three months after the date of mailing of the Office action, August 9, 2009 and ending on the date the reply was filed, November 3, 2009. Accordingly, the period of reduction of 87 days will remain.

Applicants' delay prior to the mailing of the Notice of Allowance is 233 days. Office delay prior to the mailing of the Notice of Allowance is 419 days.

In view thereof, the correct patent term adjustment at the time of the mailing of the notice of allowance is 186 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

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

E I DU PONT DE NEMOURS AND COMPANY
LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1125
4417 LANCASTER PIKE
WILMINGTON DE 19805

MAILED
JAN 13 2012
OFFICE OF PETITIONS

In re Application of
Charles D. LANG et al.
Application No. 11/401,151
Filed: April 10, 2006
Atty. Docket No. UC0552USNA

: DECISION GRANTING PETITION
: UNDER 37 CFR 1.137(b)

This is a decision on the Petition under 37 CFR 1.137(b), filed November 16, 2011, to revive the above-identified application.

The Petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice of Allowance and Fee(s) Due mailed August 15, 2011 ("Notice"), which set a statutory period for reply of three (3) months. No reply was received. The application became abandoned on November 16, 2011. A Notice of Abandonment was mailed November 22, 2011.

The Petition satisfies the conditions for revival pursuant to 37 CFR 1.137(b) by including (1) a reply in the form of payment of the Issue and Publication fees, (2) a petition fee of $1860.00, and (3) a statement of unintentional delay. Accordingly, the reply to the Notice 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 the Office of Data Management.

Robert DeWitty
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BUCHANAN, INGERSOLL & ROONEY PC
POST OFFICE BOX 1404
ALEXANDRIA VA 22313-1404

MAILED
AUG 13 2010
OFFICE OF PETITIONS

In re Patent No. 7657990	:	DECISION ON REQUEST
Wodrich et al.	:	FOR
Issue Date: 02/09/2010	:	RECONSIDERATION OF
Application No. 11/401298	:	PATENT TERM ADJUSTMENT
Filed: 04/11/2006	:	and
Atty Docket No.	:	NOTICE OF INTENT TO ISSUE
1007300-000096	:	CERTIFICATE OF CORRECTION

This is a decision on the paper styled as a request for reconsideration, filed on May 13, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting reconsideration of the dismissal of the Request for Recalculation of Patent Term Adjustment in View of *Wyeth* mailed on April 20, 2010. 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 five hundred fifty-six (556) 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 fifty-six (556) days is **GRANTED to the extent indicated herein.**

As to the "B" delay, the period is the period beginning on April 12, 2009, the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) and ending on February 9, 2010, the date the application issued as a patent, or 304 days. See, 35 U.S.C. 154(b)(1)(C)(iii).

The patent term adjustment at the time of issuance of the patent is 556 (252 days of Office delay + 304 days of over three years delay - 0 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).

No fee is required for the subject request.

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

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by five hundred fifty-six **(556)** 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 : 7,657,990 B2

DATED : **Feb. 9, 2010** **DRAFT**

INVENTOR(S) : Wodrich 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 304 days.

Delete the phrase "by 304 days" and insert – by 556 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

GRIFFITHS & SEATON PLLC (IBM)
2108 N. LEMON STREET
MESA AZ 85215

JUN 08 2011

In re Application of
KEDEM, NADAV et al. :
Application No.: 11/401,424 : DECISION ON
Filing or 371(c) Date: April 11, 2006 : PETITION
Attorney Docket Number: TUC920105001US4 (333.U03)

This is a decision on the Petition to Withdraw Holding of Abandonment received in the United States Patent and Trademark Office (USPTO) on May 27, 2011.

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 February 7, 2011 which set forth a three (3) month statutory period of reply. The Notice of Abandonment was mailed on May 25, 2011.

Petitioner states that the issue fee transmittal and payment were timely filed via the USPTO on May 5, 2011. Petitioner submitted a copy of the original submission which included a properly completed Certificate of Mailing/Transmission which included a deposit account.

In view of the foregoing, the holding of abandonment for failure to timely pay the issue fee is hereby withdrawn and the application restored to pending status.

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 756-1547.

Kay D. Pinkney
Application Assistance Unit
Office of Data Management

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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PRICE & ADAMS, P.C.
4135 BROWNSVILLE ROAD
P.O. BOX 98127
PITTSBURGH PA 15227-0127

MAILED

NOV 29 2010

OFFICE OF PETITIONS

In re Application of
Nick C. Kravitch
Application No. 11/401,431
Filed: April 10, 2006
Attorney Docket No. 9131

DECISION ON PETITION

This is a decision on the petition, filed November 8, 2010, which is being treated as a petition under 37 CFR 1.181 (no fee), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **Granted**.

This application was held abandoned for failure to timely respond to the non-final Office action mailed March 31, 2010, which set a three (3) month period for reply. A reply was due on or before June 31, 2010.

A review of the facts indicates that the response to the Office action was filed in Application No. 11/403,431 on June 30, 2010. The serial number on the papers filed in the response had the serial number of 11/403,431 but all the other identifiers were for the instant application. Thus the Office could have determined the correct application file (the instant application) that the papers were actually intended for, based on the identifying information in the heading of the papers (e.g., filing date, title of invention, attorney's docket number and inventor's name).

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

The response, filed June 30, 2010, is being moved to the instant application. The application will then be forwarded to Technology Center Art Unit 3723 for consideration of the response filed June 30, 2010.

Telephone inquiries concerning this decision should be directed to Carl Friedman at (571) 272-6842.

Carl Friedman
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 04/14/11

TO SPE OF : ART UNIT 2826

SUBJECT : Request for Certificate of Correction for Appl. No 11/401,495.: RE41661

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)

Should the change(s) Be made?

RoChaun Johnson
Certificates of Correction Branch
571 272-0470

Thank You For Your Assistance

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

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

Comments: Approved.

/Jinhee Lee/ 2835
SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Patent Prosecution Dept.
MURABITO, HAO & BARNES LLP
TWO NORTH MARKET STREET, THIRD FLOOR
SAN JOSE, CA 95113

MAILED

AUG 05 2011

OFFICE OF PETITIONS

In re Application of	:	
Richard T. OESTERREICHER, et *al.*	:	
Application No. 11/401,605	:	DECISION GRANTING PETITION
Filed: April 10, 2006	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **MIDS-0005C**	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed August 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 June 30, 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 2481 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

KLARQUIST SPARKMAN, LLP
121 SW SALMON STREET
SUITE 1600
PORTLAND OR 97204

MAILED
OCT 07 2010
OFFICE OF PETITIONS

In re Application of	:	
Vladimir J. Drbal	:	
Application Number: 11/401698	:	ON PETITION
Filing Date: 04/10/2006	:	
Attorney Docket Number: 6122-83748-02	:	

This is a decision in response to the petition under 37 CFR 1.137(b) filed on June 22, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on April 30, 2009, for failure to file timely submit a reply to the non-final Office action mailed on January 29, 2009, which set a three (3) month statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on September 16, 2009.

Receipt of the amendment filed on October 9, 2009, is acknowledged.

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

The application is forwarded to the Office of Patent Applcation Processing 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

Cf:

WALTER W. WITOSHIN
MANAGER, QN DIGNOSTICS, LLC
100 S. MAIN ST, Ste. 300
DOYLESTOWN PA 18901

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Paper No.

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

MAILED
JUN 12 2011
OFFICE OF PETITIONS

In re Application of	:	
Paz	:	
Application No. 11/401,703	:	DECISION ON PETITION
Filed: April 11, 2006	:	PURSUANT TO
Attorney Docket No.: MVIR-0804/150826.04	:	37 C.F.R. § 1.137(B)
Title: SELECTION COMPRESSION	:	

This is a decision on the petition pursuant to 37 C.F.R. § 1.137(b), filed June 14, 2011, to revive the above-identified application.

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

The above-identified application became abandoned for failure to reply in a timely manner to a non-final Office action, mailed August 31, 2010, which set a shortened statutory period for reply of three months. No response was received, and no extensions of time under the provisions of 37 C.F.R. § 1.136(a) were requested. Accordingly, the above-identified application became abandoned on December 1, 2010. A notice of abandonment was mailed on April 7, 2011.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in 37 C.F.R. § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The

Commissioner may require additional information where there is a question whether the delay was unintentional, and;

(4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

With this petition, Petitioner has submitted an amendment, the petition fee, and the proper statement of unintentional delay. As such, the first three requirements of Rule 1.137(b) have been met. The fourth requirement of Rule 1.137(b) is not applicable, as a terminal disclaimer is not required.[1]

The Technology Center will be notified of this decision, and jurisdiction over this application is transferred to the Technology Center, so that the application may receive further processing. The Technology Center's support staff will notify the Examiner of this decision, so that the amendment that was received on June 14, 2011 can be processed in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the revival has been acknowledged by the Technology Center in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status.**

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[2] All other inquiries concerning this application should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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1 See Rule 1.137(d).

2 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SEP 06 2010
OFFICE OF PETITIONS

LADAS & PARRY LLP
26 WEST 61ST STREET
NEW YORK NY 10023

In re Patent No. 7,528,226	:	
Issue Date: May 5, 2009	:	
Application No. 11/401,744	:	DECISION ON PETITION
Filed: April 11, 2006	:	
Attorney Docket No. U 016256-9	:	

This is a decision on the Petition For Correction Of Assignee's Name, filed March 5, 2010, which is being treated as a Petition Under 37 CFR 3.81(b), to identify the correct assignee's name. A completed Certificate of Correction Form (PTO/SB/44) was submitted with petition.

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

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

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

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

The requisite $100.00 fee (Fee Code 1811), as set forth under 37 CFR 1.20(a), and the requisite $130.00 processing fee (Fee Code 1464), as set forth under 37 CFR 1.17(i), have been submitted. Further, Office assignment records are consistent with the requested correction. Accordingly, since the Petition complies with the provisions of 37 CFR 3.81(b), it is appropriate for the Office to issue a Certificate of Correction in accordance with the content of the Form PTO/SB/44 submitted with petition.

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

Any questions concerning the issuance of a Certificate of Correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

This matter is being referred to the Certificates of Correction Branch for processing of a Certificate of Correction in U.S. Patent No. 7,528,226.

Cheryl Gibson-Baylor
Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED
DEC 19 2011
OFFICE OF PETITIONS

In re Application of
Mohammad Ayub Khan, et al.
Application No. 11/401,759
Filed: April 10, 2006
Attorney Docket No. 12000010-0008-002

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 12, 2011.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Tarek N. Fahml on behalf of all attorneys of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future communications from the Office will be directed to the assignee of the entire interest at the first copied address below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to Terri Johnson at 571-272-2991.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

cc: **STREAMING NETWORKS**
1765 Scotto Boulevard, Suite 110
Santa Clara, CA 95050

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/401,759	04/10/2006	Mohammad Ayub Khan	12000010-0008-002

CONFIRMATION NO. 4523

POWER OF ATTORNEY NOTICE

26263
SNR DENTON US LLP
P.O. BOX 061080
CHICAGO, IL 60606-1080

OC000000051542663

Date Mailed: 12/19/2011

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/12/2011.

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

/tsjohnson/

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

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	11401862
Filing Date	12-Apr-2006
First Named Inventor	George Muller
Art Unit	1625
Examiner Name	CELIA CHANG
Attorney Docket Number	9516-473-999
Title	PHARMACEUTICAL COMPOSITIONS OF 1,3-DIOXO-2-(2,6-DIOXOPIPERIDIN-3-YL)-4-AMINO ISOINDOLINE

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus any extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee – required for all utility and plant applications filed before June 8, 1995; and for all design applications;
(4) Statement that the entire delay was unintentional.

Petition fee
The petition fee under 37CFR 1.17(m) is attached.

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

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

☐ Applicant(s) status remains as SMALL ENTITY.

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

Issue Fee and Publication Fee :

Issue Fee and Publication Fee are not due.

☒ Issue Fee Transmittal is attached

Drawing corrections and/ or other deficiencies.

- (●) Drawing corrections and/ or other deficiencies are not required
- ( ) I certify, in accordance with 37 CFR 1.4.(D)(4), that drawing corrections and/ or other deficiencies have previously been filed on
- ( ) Drawing corrections and/ or other deficiencies are attached.
- [x] STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional.

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

- (●) An attorney or agent registered to practice before the Patent and Trademark Office who has been given power of attorney in this application.
- ( ) An attorney or agent registered to practice before the Patent and Trademark Office, acting in a representative capacity.
- ( ) A sole inventor
- ( ) A joint inventor; I certify that I am authorized to sign this submission on behalf of all of the inventors.
- ( ) A joint inventor; all of whom are signing this e-petition.
- ( ) The assignee of record of the entire interest that has properly made itself of record pursuant to 37 CFR 3.71.

Signature	/Hoon Choi/
Name	Hoon Choi
Registration Number	64214

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Decision Date : March 16, 2012

In re Application of :

George Muller

Application No : 11401862

Filed : 12-Apr-2006

Attorney Docket No : 9516-473-999

DECISION ON PETITION

UNDER CFR 1.137(b)

This is an electronic decision on the petition under 37 CFR 1.137(b), filed March 16, 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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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In re Patent No. 7218981
Issue Date: May 15,2007
Application No. 11401900
Filed: April 12,2006
Attorney Docket No. 0941-1576PUS1

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

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

The petition is **GRANTED**.

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

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

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7,218,981	2007-05-15	11/401,900	2006-04-12	LKSP0159USA

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)	2012-04-06
Name	Winston Hsu	Registration Number	41526

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

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JESSE D. SUKMAN
220 PARK AVE.
LONG BEACH CA 90803

MAILED
JUN 15 2011
OFFICE OF PETITIONS

In re Application of	:	
Jesse David Sukman	:	
Application No. 11/401,903	:	DECISION ON PETITION
Filed: April 12, 2006	:	
Attorney Docket No. CET2	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 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 April 21, 2011, as required by the Notice of Allowance and Fee(s) Due mailed January 21, 2011. Accordingly, the date of abandonment of this application is April 22, 2011. A Notice of Abandonment was mailed May 6, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $755.00 and the publication fee of $300.00, (2) the petition fee of $810.00; and (3) a proper statement of unintentional delay.

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

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

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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GOWLING LAFLEUR HENDERSON LLP (RIM)
160 ELGIN STREET, SUITE 2600
OTTAWA ON K1P 1C3 CA CANADA

MAILED
MAR 27 2012
OFFICE OF PETITIONS

In re Application of
Bocking et al.
Application No. 11/401,917
Filed: April 12, 2006
Attorney Docket No. 08905610US

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 2, 2012, to revive the above-identified application.

The petition is **GRANTED**.

This above-identified application became abandoned for failure to timely file a reply to a non-final Office action mailed June 23, 2011. The Office Action set a three (3) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on September 24, 2011. A Notice of Abandonment was mailed on March 7, 2012.

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 $1860.00, 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 2612 for appropriate action by the Examiner in the normal course of business on the reply received

/Charlema Grant/
Charlema Grant
Attorney Advisor
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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REED SMITH LLP
P.O. BOX 488
PITTSBURGH, PA 15230

MAILED

NOV 10 2010

OFFICE OF PETITIONS

In re Application of	:	
Mark J. Stefik, et al.	:	
Application No. 11/401,926	:	DECISION ON REQUEST FOR
Filed: April 12, 2006	:	REVOCATION OF POWER
Attorney Docket No. 111325-026600	:	OF ATTORNEY
	:	

This is a decision on the Request to Revoke the attorney or agent of record under 37 C.F.R. § 1.36(a), filed October 7, 2010.

The request is **NOT APPROVED**.

A power of attorney, pursuant to § 1.32(b), may be revoked at any stage in the proceeding of a case by an applicant for patent (§ 1.41(b)) or an assignee of the entire interest of the applicant under § 3.71(b). Fewer than all of the applicants (or by fewer than the assignee of the entire interest of the applicant) may only revoke the power of attorney upon a showing of sufficient cause, and payment of the petition fee set forth § 1.17(h). For the assignee to take action a proper statement under § 3.73(b) is required.

The request cannot be approved because the statement under 3.73(b) is not proper. The statement under 3.73(b) is improper because the statement does not list the correct application and serial number for the current application. Petitioner must file a valid statement under 3.73(b) and new power of attorney in order to have the power of attorney approved.

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 statement filed 37 CFR 3.73(b).

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

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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NIXON PEABODY, LLP
401 9TH STREET, NW
SUITE 900
WASHINGTON DC 20004-2128

MAILED
NOV 10 2010
OFFICE OF PETITIONS

In re Application of
Mark J. Stefik, et al.
Application No. 11/401,926
Filed: April 12, 2006
Attorney Docket No. 111325-026600

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

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

The request is **NOT APPROVED**.

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

A review of the file record indicates that Nixon Peabody, LLP does not have power of attorney in this patent application. See 37 C.F.R. § 10.40. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

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

There are no pending Office actions at the present.

Telephone inquires concerning this decision should be directed to undersigned at 571-272-1642.

All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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PATENT DEPARTMENT (51851)
KILPATRICK STOCKTON LLP
1001 WEST FOURTH STREET
WINSTON-SALEM NC 27101

MAILED

OCT 2 1 2010

OFFICE OF PETITIONS

In re Application of	:	
Rosengberg et al.	:	ON REQUEST FOR
Application No. 11/401992	:	RECONSIDERATION OF
Filing or 371(c) Date: 04/10/2006	:	PATENT TERM ADJUSTMENT
Attorney Docket Number:	:	
IMMR-0031C	:	

This is a decision on the "PETITION REGARDING PATENT TERM ADJUSTMENT (PTA) INDICATED ON NOTICE OF ALLOWANCE," filed June 10, 2010. Applicants petition for reconsideration of the patent term adjustment calculation to 1126 days, not 435 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction based upon (1) on the basis that the Office will take in excess of three years to issue this patent. 37 C.F.R. § 1.705(b); (2) an assertion that the Office erred in calculating a delay of 118 days, and (3) the Office erred in failing to calculate a delay of 18 days under 37 CFR 1.704(c)(10).

The Application for Patent Term Adjustment Including Request for Reconsideration of Patent Term Adjustment ("PTA") under 37 CFR 1.705(b), as it relates to the assertion that the Office erred in failing to calculate a delay of 118 days is **DISMISSED**.

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 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), and as it relates to the Office's failure to calculate a delay of 18 days under 37 CFR 1.704(c)(10), is **DISMISSED as PREMATURE**.

On March 11, 2010, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is four hundred thirty-five (435) days.

On June 10, 2010, applicant timely submitted the instant application for patent term adjustment[1]. Applicants request that the Determination of Patent Term Adjustment be corrected from four

[1] PALM records show that the Issue Fee payment was received in the Office on June 10, 2010.

hundred thirty-five (435) days, as indicated on the Determination of PTA mailed March 11, 2010, to an adjustment of 1126 days. Applicants aver that the Office may have erred in failing to calculate an adjustment 118 days.

As to the assertion that the Office erred in failing to calculate a delay of 118 days, the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) mailed March 11, 2010 indicates a patent term of 435 days. The instant request for reconsideration of patent term adjustment indicates that the Office erred in calculating a reduction of 118 days in connection with the filing of a reply to a Notice of Non-Compliant Amendment, 118 days after filing a reply to a non-final Office action on May 13, 2009. Applicants aver that the Notice of Non-Compliant Amendment, mailed August 6, 2009 and stating that the reply filed May 13, 2009 was not a proper reply because it was not signed by an attorney of record, was mailed in error.

A review of Office records reveals that Applicants filed a Power of Attorney on May 7, 2009. The Power of Attorney was executed by Catherine Maresh, Senior IP Counsel. Office records also reveal that Applicants filed a Statement Under 37 CFR 3.73(b) on May 7, 2009, which stated that Carl E. Sanders was authorized to act on behalf of the assignee.

The applicable Rule, 37 CFR 3.73(b), states, in relevant part: "(1) [i]n order to request or take action in a patent or trademark matter, the assignee must establish its ownership of the patent or trademark property of paragraph (a) of this section to the satisfaction of the Director." Further to this, 37 CFR 3.73(b)(2) provides:

> The submission establishing ownership must show that the person signing the submission is a person authorized to act on behalf of the assignee by:
> (i) Including a statement that the person signing the submission is authorized to act on behalf of the assignee; or
> (ii) Being signed by a person having apparent authority to sign on behalf of the assignee, e.g., an officer of the assignee.

Here, the Power of Attorney was signed by Catherine Maresh, Senior IP Counsel. However, the Statement Under 37 CFR 3.73(b), filed on May 7, 2009, stated that Carl E. Sanders was authorized to act on behalf of the assignee.

The MPEP 324 states:

> V. PARTY WHO MUST SIGN
> <u>The submission establishing ownership must be signed by a party authorized to act on behalf of the assignee. The submission under 37 CFR 3.73(b) may be signed on behalf of the assignee in the following manner if the assignee is an organization (e.g., corporation, partnership, university, government agency, etc.):</u>
> (A) The submission may be signed by a person in the organization having apparent authority to sign on behalf of the organization. 37 CFR 3.73(b)(2)(ii). An officer (chief executive officer, president, vice-president, secretary, or treasurer) is presumed to have authority to sign on behalf of the organization. The signature of the chairman of the board of directors is acceptable, but not the signature of an individual

director. Modifications of these basic titles are accept -able, such as vice-president for sales, executive vice-president, assistant treasurer, vice-chairman of the board of directors. In foreign countries, a person who holds the title "Manager" or "Director" is normally an officer and is presumed to have the authority to sign on behalf of the organization. A person having a title (administrator, general counsel) that does not clearly set forth that person as an officer of the assignee is not presumed to have authority to sign the submission on behalf of the assignee. A power of attorney (37 CFR 1.32(b)(4)) to a patent practitioner to prosecute a patent application executed by the applicant or the assignee of the entire interest does not make that practitioner an official of an assignee or empower the practitioner to sign the submission on behalf of the assignee.
(B) The submission may be signed by any person, if the submission sets forth that the person signing is authorized (or empowered) to act on behalf of the assignee, i.e., to sign the submission on behalf of the assignee. 37 CFR 3.73(b)(2)(i).
(C) The submission may be signed by a person empowered by an organizational resolution (e.g., corporate resolution, partnership resolution) to sign the submission on behalf of the assignee, if a copy of the resolution is, or was previously, submitted in the record.
Where a submission does not comply with (A), (B), or (C) above, evidence of the person's authority to sign will be required.

Here, Applicant has failed to demonstrate that Senior IP Counsel Catherine Maresh was authorized to act on behalf of the assignee. As such, the reply to the non-final Office action was non-compliant, and a reduction pursuant to 37 CFR 1.704(c)(7) was properly assessed to Applicants.

As to the Office's failure to issue the patent within 3 years of the filing date, and as to the Office's failure to assess a reduction of 18 days in connection with the Information Disclosure Statement ("IDS"), filed May 24, 2010, 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[2].

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

Any request for reconsideration of the patent term adjustment indicated on the patent, including any request as it relates to the Office's failure to issue the patent within 3 years of the filing date, must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and **must** include payment of the required fee under 37 CFR 1.18(e).

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

Telephone inquiries specific to this matter should be directed to Attorney Derek Woods at (571) 272-3232.

Anthony Knight
Director
Office of Petitions

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

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BROWDY AND NEIMARK, PLLC
1625 K STREET, N.W.
SUITE 1100
WASHINGTON DC 20006

MAILED

JAN 24 2011

OFFICE OF PETITIONS

In re Patent No. 7,289,190	:	
Issued: October 30, 2007	:	
Application No. 11/402,009	:	ON PETITION
Filed: April 12, 2006	:	
Attorney Docket No. DISHON=1A	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed December 10, 2010.

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

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

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

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

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

Joan Olszewski
Petitions Examiner
Office of Petitions

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

MAILED
JUN 23 2011
OFFICE OF PETITIONS

Robert D. Shedd, Patent Operations
THOMSON Licensing LLC
P.O. Box 5312
Princeton NJ 08543-5312

In re Application of	:	
Jonathan KERVEC et al.	:	ON PETITION
Application No. 11/402,015	:	
Filed: April 11, 2006	:	
Atty. Docket No.: PF050074		

This is a decision on the petition under 37 CFR 1.137(b), filed May 6, 2011, to revive the above-identified application.

The petition **GRANTED**.

The application went abandoned for failure to reply in a timely manner to the final Office action mailed September 15, 2010, which set a shortened statutory period for reply of three (3) months. No reply was received, and no extension of time under the provisions of 37 CFR 1.136(a) were obtained. The application thus became abandoned on December 16, 2010. A Notice of Abandonment was mailed April 19, 2011.

The petition satisfies the conditions for revival pursuant to 37 CFR 1.137(b) by including (1) a reply in the form of a Request for Continued Examination (RCE) and RCE fee, and the submission required under 37 CFR 1.114, (2) a petition fee of $1620, and (3) a statement of unintentional delay. The reply to the final Office action is accepted as having been unintentionally delayed.

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

The application file will be referred to Technology Center Art Unit 2629 for further action on the filed Response.

Anthony Knight
Director
Office of Petitions

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EPSTEIN DRANGEL LLP
60 EAST 42ND STREET, SUITE 2410
NEW YORK, NY 10165

MAILED

MAR 15 2011

OFFICE OF PETITIONS

In re Application of	:	
Ihor WACYK, et *al.*	:	
Application No. 11/402,092	:	DECISION ON PETITION
Filed: April 10, 2006	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. **1494-126**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 27, 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 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 31, 2010.

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

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

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 2629 for appropriate action by the Examiner in the normal course of business on the reply received August 27, 2010.

Thurman K. Page
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : **1-28-11**

TO SPE OF : ART UNIT **2883**

SUBJECT : Request for Certificate of Correction for Appl. No.: **11402106** Patent No.: **7499616**

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Omega Lewis
Certificates of Correction Branch

703-756-1575

Thank You For Your Assistance

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

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

Comments: _____

_____

_____

_____

_____

/Mark Robinson/ **2883**
SPE **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 08/31/10

TO SPE OF : ART UNIT 2874

SUBJECT : Request for Certificate of Correction for Appl. No.: 11402161 Patent No.: 7401985

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: The Request for Certificate of Correction for the purpose of correcting typographical, grammatical errors in specification, drawings and claims

/UYEN-CHAU N. LE/ 2874
SPE **Art Unit**

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APR 12 2011

OFFICE OF PETITIONS

SUNSTEIN KANN MURPHY & TIMBERS LLP
125 SUMMER STREET
BOSTON MA 02110-1618

In re Application of
Samuel B. Schaevitz et al.
Application No. 11/402,162
Filed: April 10, 2006
Attorney Docket No. 3553/119

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 March 15, 2011.

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

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

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-2783.

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions

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

MAILED

DEC 20 2010

OFFICE OF PETITIONS

In re Application of
Darrel D. Drinan, et al.
Application No. 11/402,225
Filed: April 11, 2006
Attorney Docket No. PHILO.002C1

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) filed October 29, 2010.

The request is **NOT APPROVED**.

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

A review of the file record indicates that Knobbe, Martens, Olson & Bear, LLP does not have power of attorney in this patent application. See 37 C.F.R. § 10.40. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

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

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (e.g., copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary

evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (e.g., reel and frame number).

There is an outstanding Office action mailed September 15, 2010 that requires a reply by applicant.

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

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

cc: PHILOMETRON, INC.
10451 ROSELLE STREET
SUITE 100
SAN DIEGO, CA 92121

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MOTOROLA SOLUTIONS, INC.
IP LAW DOCKETING
1303 EAST ALGONQUIN ROAD
IL01/11TH FLOOR
SCHAUMBURG IL 60196

MAILED
JUN 02 2011
OFFICE OF PETITIONS

In re Application of	:	
Anthony R. Metke et al.	:	
Application No. 11/402,246	:	DECISION ON PETITION
Filed: April 11, 2006	:	
Attorney Docket No. **CM08981BBH**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 05, 2011, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not filed within one (1) month of the Notice of Panel Decision from Pre-Appeal Brief Review filed March 13, 2009, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on April 14, 2009. See MPEP 1215.04.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an appeal brief and appeal brief fee, (2) the petition fee of $1620, and (3) an adequate statement of unintentional delay. Accordingly, the reply to the Notice of March 13, 2009 is accepted as having been unintentionally delayed.

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

This application is being referred to Technology Center AU 2617 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

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

MAILED

OCT 20 2010

OFFICE OF PETITIONS

In re Application of	:	
Feldhoffer et al.	:	DECISION ON PETITION
Application No. 11/402,253	:	TO WITHDRAW
Filed: April 12, 2006	:	FROM RECORD
Attorney Docket No. 741439-34	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 29, 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.***

Therefore, as there is currently no Statement under 37 CFR 3.73(b) of record in the instant application, the Office cannot change the correspondence address to the address on the Request to Withdraw.

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

Currently, there is an outstanding Office action mailed September 14, 2010 that requires a reply.

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

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

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DAVID J. ARCHER
7037 POMERY ROAD
ROCKTON IL 61072

MAILED
SEP 24 2010
OFFICE OF PETITIONS

In re Application of	:	
Philip W. SMITH	:	
Application No. 11/402,280	:	DECISION ON PETITION
Filed: April 11, 2006	:	
Attorney Docket No. 1381US	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue and publication fees on or before May 5, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed February 5, 2009, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on May 6, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $755 and publication fee of $300; (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted.

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

This 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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APR 26 2011

OFFICE OF PETITIONS

LIPSITZ & MCALLISTER LLC
755 MAIN STREET
MONROE CT 06468

In re Application of	:	
Fritz, et al.	:	
Application No. 11/402,308	:	ON PETITION
Filed: April 10, 2006	:	
Attorney Docket No. HOE-964	:	

This is in response to petition to revive an unintentionally abandoned application under 37 CFR 1.137(b), filed April 1, 2011.

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

The above-identified application became abandoned for failure to timely file a proper response to the final Office action, mailed June 28, 2010, which set a shortened statutory period for reply of three months. Applicants filed an Amendment on September 7, 2010. However, the Examiner mailed an Advisory Action on October 22, 2010, stating that the Amendment would not be entered because it failed to place the application in condition for allowance. No further reply with an extension of time having been received, the application became abandoned on September 29, 2010. The Office mailed a Notice of Abandonment on February 16, 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 Request for Continued Examination (RCE).

The application is being forwarded to Group Art Unit 3774 for consideration of the RCE, filed April 1, 2011.

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

Cliff Congo
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 03/29/11

TO SPE OF : ART UNIT 1625

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/402,310 Patent No.: 7,700,641

CofC mailroom date: 3/24/11

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

RoChaun Johnson
Certificates of Correction Branch
703-756-1580

Thank You For Your Assistance

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

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

Comments: _____

/Janet L. Andres/ 1625
SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/402,385	04/11/2006	Jerome B. Zeldis	CELG-0486	6804

23377 7590 10/15/2010
WOODCOCK WASHBURN LLP
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA, PA 19104-2891

EXAMINER
HENLEY III, RAYMOND J

ART UNIT	PAPER NUMBER
1614	

NOTIFICATION DATE	DELIVERY MODE
10/15/2010	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):

eofficemonitor@woodcock.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

OCT 15 2010

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

In re Application of:
Zeldis et al.
Serial No.: 11/402,385
Filed: April 11, 2006
Attorney Docket No.: **CELG-0486**

: PETITION DECISION

This is in response to the petition under 37 CFR § 1.59(b), filed October 4, 2010, to expunge information from the above identified application. This application is abandoned.

Petitioner requests that information submitted in the Information Disclosure Statement filed November 6, 2006 be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

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

Therefore, petitioner's petition is GRANTED.

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

Marianne C. Seidel
Quality Assurance Specialist
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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

STEVEN A. NIELSEN
ALLMAN & NIELSEN, P.C.
100 LARKSPUR LANDING CIRCLE
SUITE 212
LARKSPUR CA 94939

MAILED

JUN 10 2011

OFFICE OF PETITIONS

In re Application of	:	
Alon Konchitsky	:	
Application No. 11/402,405	:	DECISION ON PETITION
Filed: April 11, 2006	:	
Attorney Docket No. KON109N	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 20, 201, 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 1, 2010, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on July 2, 2010. A Notice of Abandonment was mailed March 11, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment, (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 2614 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : March 30, 2011

TO SPE OF : ART UNIT 3992

SUBJECT : Request for Certificate of Correction for Appl. No.: 11402419 Patent No.: 7862045

CofC mailroom date: Mar. 22, 2011

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Certificates of Correction Branch

703-756-1814

Thank You For Your Assistance

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

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

Comments: The patent appears to already make reference to applications 11/054,670, 60/670,550 and 60/760,750. Additionally it is not clear if the newly submitted correction request intends to replace the paragraph to related application or amend language therein

D. Ruthol SPE A43716

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

SPE **Art Unit**

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

Date: May 10, 2011

Patent No. : 7,862,045 B2
Application No.: 11/402,419
Issued : January 4, 2011
Inventor : Hodge
Title : **METHOD AND APPARATUS FOR DETERMINING AND RETRIEVING POSITIONAL INFORMATION**

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 or 1.323.

Respecting the alleged error, the patent appears to already make reference to applications 11/054,670, 60/670,550 and 60/760,750. Additionally it is not clear if the newly submitted correction request intends to replace the paragraph to related applications or amend language therein. Therefore, no correction(s) is in order here under United States Codes (U.S.C.) 254 or 255 and the Code of Federal Regulation (C.F.R.) R 1.322 or R 1.323.

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.

Valerie Jackson
Mary F. Diggs
Decisions & Certificates
of Correction Branch
(571) 272-3423

Heslin Rothenberg Farley & Mesiti P.C.
5 Columbia Circle
Albany, New York 12203

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
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MAILED
MAY 24 2011
OFFICE OF PETITIONS

Georgia-Pacific LLC
133 Peachtree Street NE - GA030-41
ATLANTA GA 30303

In re Patent No. 7,662,257	:	
Issue Date: February 16, 2010	:	
Application No. 11/402,609	:	DECISION ON PETITION
Filed: April 12, 2006	:	
Attorney Docket No. 12601 (GP-04-11)	:	

This is a decision on the Petition Re Certificate Of Correction, filed May 14, 2010, which is being treated as a Petition Under 37 CFR §3.81(b), to identify the correct assignee's name. A completed Certificate of Correction Form (PTO-1050) was submitted with Petition.

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

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

"Georgia-Pacific Consumer Products **LLC**"

to:

--Georgia-Pacific Consumer Products **LP**--

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

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

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 charged, since the petition was accompanied deposit account authorization. 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-1050) submitted with Petition.

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.

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. 7,662,257.

Cheryl Gibson Baylor

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

cc: Ferrells, PLLC
P.O. Box 312
Clifton, Virginia 20124-1706

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20120203

DATE : February 03, 2012

TO SPE OF : ART UNIT 1621

SUBJECT : Request for Certificate of Correction on Patent No.: 8053585

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

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.
11/402,975	04/13/2006	Takekazu Kakinuma	317723US26	7233

22850 7590 06/21/2011
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER
AVERY, BRIDGET D

ART UNIT	PAPER NUMBER
3618	

NOTIFICATION DATE	DELIVERY MODE
06/21/2011	ELECTRONIC

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

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

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

patentdocket@oblon.com
oblonpat@oblon.com
jgardner@oblon.com

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JUN 2 0 2011

Oblon, Spivak, McClelland Maier & Neustadt, LLP
1940 Duke Street
Alexandria, VA 22314

In re Application of	:	DECISION ON PETITION TO
Takekazu KAKINUMA, et al.	:	COMPEL CONSIDERATION OF
Appl. No. 11/402,975	:	INFORMATION DISCLOSURE
Filed: April 13, 2006	:	STATEMENT UNDER
For: COAXIAL TWO-WHEEL VEHICLE	:	37 CFR 1.181(a)(3)

This is a decision on applicants' petition under 37 CFR 1.181(a)(3) filed on April 1, 2011 to compel the examiner to consider the documents (AO) and (AW) cited in the Information Disclosure Statement filed on February 14, 2011.

The petition is **GRANTED.**

The record reflects that on February 2, 2011, a notice of allowance was mailed out to applicants. On February 14, 2011, applicants submitted an Information Disclosure statement, together with a copy of document (AO) with an English abstract and a copy of document (AW) of the Japanese Office action with an English translation citing document (AO). Examiner sent out a communication to applicants on March 31, 2011 stating that documents (AO) and (AW) had not been considered.

37 CFR § 1.97 sets forth the filing requirements for a timely submitted Information Disclosure Statement. Section 1.97(d) states:

> (d) An information disclosure statement shall be considered by the Office if filed by the applicant after the period specified in paragraph (c) of this section, provided that the information disclosure statement is filed on or before the payment of the issue fee and is accompanied by:
>
> > (1) The statement specified in paragraph (e) of this section; and
> >
> > (2) The fee set forth in § 1.17(p).

As set forth in section 1.97(e):

> (e) A statement under this section must state either:
>
> > (1) 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 foreign application not more than three months prior to the filing of the information disclosure statement; or . . . .

> counterpart foreign application not more than three months prior to the filing of the information disclosure statement; or . . . .

A review of the record reveals that the Information Disclosure Statement was received on February 14, 2011, which was before the payment of the issue fee was received on April 1, 2011. Additionally, applicants' Information Disclosure Statement set forth the statement required by paragraph (e) of §1.97 and that the fee required by §1.17(p) was received by the Office. Therefore, the applicants met the requirements for the Information Disclosure Statement to be considered by the Office. Accordingly, documents (AO) and (AW) will be considered by the examiner.

Any questions regarding this decision should be directed to Supervisory Patent Examiner J. Allen Shriver at (571) 272-6698.

David L. Talbott, Director
Technology Center 3600
(571) 272-5250

jas/lm : 6/6/2011

LM

UNITED STATES PATENT AND TRADEMARK OFFICE

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

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 NEW YORK AVE., N.W.
WASHINGTON DC 20005

MAILED

AUG 16 2010

OFFICE OF PETITIONS

In re Application of	:	
Stanislav Smirnov, et al.	:	
Application No. 11/403,007	:	DECISION GRANTING PETITION
Filed: April 13, 2006	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 1857.4390000	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, August 16, 2010 to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on June 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 should be directed to Terri Johnson at (571) 272-2991.

This application is being referred to Technology Center AU 2882 for processing of the request or 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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P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Patent No. :7,918,796
Ser. No. :11/403,095
Inventor(s) :Nycz, et al.
Issued :04/5/11
Title :Volumetric Measurement And Visual Feedback Of Tissues
Docket No. :

Re: Request for Certificate of Correction

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

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

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

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

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

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

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

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

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

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

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

A certificate of correction will be issued to correct the remaining errors noted in your request.

[RoChaun Johnson]
For Mary Diggs
Decisions & Certificates
of Correction Branch
(571) 272-0470 or (703) 756-1814

Medtronic, Inc. (Spinal)
710 Medtronic Parkway
Attn: Legal Patents MS: LC340
Minneapolis MN 55432-5604
RMJ

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.
11/403,169	04/12/2006	Jurgen Steger	MERTE.P029	8548

28752 7590 08/11/2010
LACKENBACH SIEGEL, LLP
LACKENBACH SIEGEL BUILDING
1 CHASE ROAD
SCARSDALE, NY 10583

EXAMINER
CAO, PHAT X

ART UNIT	PAPER NUMBER
2814	

MAIL DATE	DELIVERY MODE
08/11/2010	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

LACKENBACH SIEGEL, LLP
LACKENBACH SIEGEL BUILDING
1 CHASE ROAD
SCARSDALE NY 10583

In re Application of	
STEGER et al.	**: DECISION ON REQUEST TO**
Application No.: 11/403,169	**: PARTICIPATE IN THE PATENT**
Filed: 12 April 2006	**: PROSECUTION HIGHWAY**
Attorney Docket No.: MERTE.P029	**: PROGRAM AND PETITION**
For: POWER SEMICONDUCTOR	**: TO MAKE SPECIAL UNDER**
MODULE WITH FLUSH TERMINAL	**: 37 CFR 1.102(d)**
ELEMENTS	

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) program and the petition under 37 CFR 1.102(d), filed 02 August 2010, to make the above-identified application special.

The request and petition are **DENIED**.

Discussion

A grantable request to participate in the PPH program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the EPO;

(2) Applicant must submit a copy of the allowable/patentable claim(s) from the EPO application(s) along with an English translation thereof and a statement that the English translation is accurate;

(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the EPO application(s);

(4) Examination of the U.S. application has not begun;

(5) Applicant must submit a copy of all the office actions from each of the EPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;

(6) Applicant must submit an IDS listing the documents cited by the EPO examiner in the EPO office action along with copies of documents except U.S. patents or U.S. patent application publications; and

The request to participate in the PPH pilot program and petition fails meet at least condition (4).

Regarding the requirement of condition (4), examination of the U.S. application has begun. A first action on the merits was mailed on 02 February 2010. This deficiency cannot be overcome and the petition must be denied.

Inquiries concerning this decision should be directed to Lee W. Young at 571-272-4549.

All other inquiries concerning the examination or status of the application is accessible in the PAIR system at http://www.uspto.gov/ebc.index.html.

This application will be forwarded to the examiner for action on the merits commensurate with this decision once the formalities review has been completed.

Lee W. Young
TQAS
Technology Center 2800

UNITED STATES PATENT AND TRADEMARK OFFICE

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

HITACHI C/O WAGNER BLECHER LLP
123 WESTRIDGE DRIVE
WATSONVILLE, CA 95076

MAILED

JAN 25 2011

OFFICE OF PETITIONS

In re Application of
Bernhard E. Knigge, et al.
Application No. 11/403,177
Filed: April 11, 2006
Attorney Docket No. HSJ920050258US1

DECISION ON PETITION

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

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before July 15, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed April 15, 2010. Accordingly, the date of abandonment of this application is July 16, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1510 and the publication fee of $300, (2) the petition fee of $1620; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642. All other inquiries concerning this application should be directed to the Office of Data Management at their hotline 571-272-4200.

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

April M. Wise
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4-14-11

TO SPE OF : ART UNIT 2464

SUBJECT : Request for Certificate of Correction for Appl. No.: 11403202 Patent No.: 7894488

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Omega Lewis
Certificates of Correction Branch

703-756-1575

Thank You For Your Assistance

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

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

Comments: _____

/Ricky Ngo/ AU 2464

UNITED STATES 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 & MAYER, LTD
TWO PRUDENTIAL PLAZA, SUITE 4900
180 NORTH STETSON AVENUE
CHICAGO IL 60601-6731

MAILED
JUN 15 2011
OFFICE OF PETITIONS

In re Application of
Bump et al.
Application No. 11/403,228
Filed: April 11, 2006
Attorney Docket No. 239238

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 6, 2011, to revive the above-identified application.

The petition is **GRANTED**.

This above-identified application was held abandoned for failure to timely file an appeal brief in response to the Notice of Appeal filed September 30, 2010. No timely request for extension of time were submitted pursuant to 37 CFR 1.136(a). Accordingly the application was held abandoned on December 1, 2010. This decision precedes the mailing of the Notice of Abandonment.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an appeal brief (accompanying fee), (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 $2350 extension of time fee submitted on June 6, 2011 was subsequent to the maximum extendable period for reply, the fees will be refunded to deposit account 12-1216.

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

This application is being referred to Technology Center AU 2171 for appropriate action by the Examiner in the normal course of business on the reply received

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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OFFICE OF PETITIONS

MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS MN 55402-0903

In re Application of	:	
SAVARESE et al.	:	DECISION ON PETITION
Application No. 11/403,455	:	
Filed: 04/13/2006	:	
Attorney Docket No. 16231.0009US01	:	

This is a decision on the petition under 37 CFR 1.137(b), filed March 24, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a timely and proper response to the non-final Office action mailed September 25, 2008, which set a three-month shortened statutory period to reply. The above-identified application became abandoned on December 26, 2008. A Notice of Abandonment was mailed April 20, 2009.

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

This application is being referred to Technology Center AU 3617 for appropriate action by the Examiner on the reply received on March 24, 2010.

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

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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

PTO/SB/131 (02-10)
Approved for use through 08/31/2013. OMB 0651-0020
U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

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

Attorney Docket Number: 816.0056USD1	
Application Number: 11/403,480	Filing Date (or 371(b) or (f) Date): April 13, 2006
Patent Number: 7,795,333	Issue Date: September 14, 2010
First Named Inventor: Willard E. Wood	
Title: GRAFTED CYCLODEXTRIN	

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 /Mark DiPietro/	Date November 12, 2010
Name (Print/Typed) Mark DiPietro	Registration Number 28707

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

☐ *Total of _____ forms are submitted.

The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 10 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

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

Instruction Sheet for: REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH**

(Not to be Submitted to the USPTO)

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

This form must be filed within 180 days of the day the patent was granted, with the following exception:

> Patentees who received a decision from the USPTO under the USPTO's pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A) may file a request for reconsideration of that decision if such a request for reconsideration is filed within **two months** of the date of the decision (37 CFR 1.181(f)). If the patentee's sole basis for requesting reconsideration of the decision is the USPTO's pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A), the request for reconsideration need only state that reconsideration is being requested in view of Wyeth (this form may be used for this purpose if it is filed within **two months** of the date of the decision from the USPTO).

Do not use this form if the application has been allowed, but not yet issued as a patent.

1. **For patents issued before March 2, 2010:** A request for reconsideration under 37 CFR 1.705(d) and the fee set forth in 37 CFR 1.18(e) are not required, provided that the patentee's sole basis for requesting recalculation of the PTA in the patent is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A) and this form is filed within 180 days of the day the patent was granted.

2. **For patents issued on or after March 2, 2010 (do not use this form):** Patentees seeking a revised PTA in a patent issued on or after March 2, 2010, must file a request for reconsideration under 37 CFR 1.705(d) that complies with the requirements of 37 CFR 1.705(b)(1) and (b)(2) within two months of the day the patent issued.

For more information, see "Notice Concerning Calculation of the Patent Term Adjustment With Respect to the Overlapping Delay Provision of 35 U.S.C. 154(b)(2)(A)" available on the USPTO Web site at http://www.uspto.gov/patents/law/notices/2010.jsp.

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

Privacy Act Statement

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

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

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

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PAULY, DEVRIES SMITH & DEFFNER, L.L.C.
Plaza VII-Suite 3000
45 South Seventh Street
MINNEAPOLIS, MN 55402-1630

Mail Date: 11/19/2010

Applicant	: Willard E. Wood	: DECISION ON REQUEST FOR
Patent Number	: 7795333	: RECALCULATION of PATENT
Issue Date	: 09/14/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/403,480	: OF WYETH
Filed	: 04/13/2006	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

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

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

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LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD, NJ 07090

Mail Date: 10/07/2010

Applicant	: Eric Baum	: DECISION ON REQUEST FOR
Patent Number	: 7640221	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/403,487	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/13/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **728** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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P.O. BOX 1596
WILMINGTON DE 19899

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OCT 18 2011

OFFICE OF PETITIONS

In re Application of	:	
Samworth et al.	:	DECISION
Application No. 11/403664	:	ON PETITION
Filing or 371(c) Date: 04/13/2006	:	
Attorney Docket Number: ESKO-108US	:	

This Decision is in response to the "Petition for Suspension of Rules Under 37 C.F.R. 1.183; Request for Waiver of Requirement for Signature of Non-Signing Inventor on 1.131 Declaration," filed September 29, 2011.

The petition is **granted**.

This application was filed on April 13, 2--6, and named Mark Samworth and Peter Cadogan as joint inventors.

On September 29, 2011, a declaration under 37 CFR 1.131 signed by joint inventor Samworth only, was filed.

Applicant files the present petition and demonstrates the inventor Cadogan refuses to join in the declaration under 37 CFR 1.131.

The MPEP 715.04, Swearing back of Reference, Affidavit or Declarant Under 37 CFR 1.131, provides in relevant part

> Where one or more of the named inventors of the subject matter of the rejected claim(s) (who had originally signed the oath or declaration for patent application under 37 CFR 1.63) is now unavailable to sign an affidavit or declaration under 37 CFR 1.131, the affidavit or declaration under 37 CFR 1.131 may be signed by the remaining joint inventors provided a petition under 37 CFR 1.183 requesting waiver of the signature of the unavailable inventor be submitted with the affidavit or declaration under 37 CFR 1.131. Proof that the non-signing inventor is unavailable or cannot be found similar to the proof required for a petition under 37 CFR 1.47 must be submitted with the petition under 37 CFR 1.183 (see MPEP § 409.03(d)). Petitions under 37 CFR 1.183 are decided by the Office of Petitions (see MPEP § 1002.02(b)).

This section states that a party qualified under 37 CFR 1.42, 1.43 or 1.47 may make the affidavit when it is not possible to produce the affidavit or declaration of the inventor, and that waiver of the signature requirement of the unavailable inventor may be demonstrated by proof similar to that required in a petition under 37 CFR 1.47. In discussing waiver requirements under 37 CFR 1.183, the Office is guided by proof similar to that required when an Applicant is unavailable. In this instance, Applicant asserts that the inventors refuse to join in the Declaration.

Analysis and Conclusion

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a).

Petitioner has shown that the non-signing inventor, Peter Cadogan, refuses to join in the declaration under 37 CFR 1.131.

The petition is granted. The application is being referred to Technology Center Art Unit 2854 for continued examination in due course.

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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Patent No. : 7,574,570 B2
Ser. No. : 11/403,684
Inventor(s) : Gladwin et al.
Issued : Aug. 11, 2009
Title : BILLING SYSTEM FOR INFORMATION DISPERSAL SYSTEM
Docket No. : CS006.02
Re: Request for Certificate of Correction

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

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

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

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

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

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

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

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

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

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

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

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

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JUN 21 2011
OFFICE OF PETITIONS

THE PROCTER & GAMBLE COMPANY
Global Legal Department - IP
Sycamore Building - 4th Floor
299 East Sixth Street
CINCINNATI OH 45202

In re Application of	:	
Philip Frank SOUTER et al.	:	ON PETITION
Application No. 11/403,687	:	
Filed: April 13, 2006	:	
Atty. Docket No.: 9959L		

This is a decision on the petition under 37 CFR 1.137(b), filed June 3, 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 nonfinal Office action mailed August 18, 2010, which set a shortened statutory period for reply of three (3) months. No reply was received, and no extensions of time under 37 CFR 1.136(a) were obtained. The application became abandoned on November 19, 2010.

The application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving the application, the application is again abandoned in favor of continuing application 13/152,612.

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

David Bucci
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5/18/11

TO SPE OF : ART UNIT 2612

SUBJECT : Request for Certificate of Correction for Appl. No.: 11403727 Patent No.: 7427928

CofC mailroom date: 05/09/11

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

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

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

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

Comments: OK to enter

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DANIEL WU
SUPERVISORY PATENT EXAMINER
AU 2612

6/22/11

SPE Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : May 2, 2011

TO SPE OF : ART UNIT 1773 SPE Jill A. Warden

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/403,737 Patent No.: 7,892,848 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 the specification and claims be approved as requested by applicant?

See COCIN dated 04-14-2011

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

Comments: The change to paragraph [0036] is denied. See the descriptions of Figures 16, 17, 19 and 20, which all state that the image is "from" an example, not "form" an example as amended. The changes to paragraphs [0053] and [0082] are approved. The change to claim 1 is denied because the terms find support in earlier portions of the claim, e.g., col. 18, lines 36, 47-48 and 28 of the published

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

patent. These are not printing errors, but rather amendments agreed to by applicant to clarify antecedence in the Examiner's amendment. The change to claim 2 is denied because "cation exchange material" in the cation depletion chamber finds antecedence in col. 18, line 65 of the published patent. The change to calim 4 is denied because the terms find antecedence in col. 19, lines 29-30, 37-38 and 47-48 of the published patent. The changes to claims 5 and 6 are denied at least because they change dependency to claims not present in the patent. These are not printing errors, but rather amendments agreed to by applicant to clarify antecedence in the Examiner's amendment. Should applicant resubmit a Request for Certificate of Correction, it is strongly suggested that applicant specifically point out what changes are being made so that the examiner can better evaluate the accuracy of the changes.

SPE _____ Art Unit 1773

JWarden

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/403,753	04/13/2006	Robert Hardacker	50V8287.02	9171

36738 7590 08/03/2011
ROGITZ & ASSOCIATES
750 B STREET
SUITE 3120
SAN DIEGO, CA 92101

EXAMINER
MCINTYRE, CHARLES AARON

ART UNIT	PAPER NUMBER
3621	

MAIL DATE	DELIVERY MODE
08/03/2011	PAPER

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

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

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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AUG 0 3 2011

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In re Application of: Robert Barracker	: DECISION ON PETITION
Appl. No. 11/403,753	: UNDER 37 C.F.R. § 1.81
Filed: April 13, 2006	:
For: SYSTEM AND METHOD FOR	:
AUTOMATICALLY UPDATING	:
TIMED DRM KEYS	:

This is in response to applicant's petition under 37 CFR 1.181 filed on August 21, 2010 requesting withdrawal objections to the drawings and the objections to the specification as set forth in the final Office action mailed May 12, 2010.

The petition is **Granted in Part.**

A review of the file history indicates that the application, as filed, contains two drawings labeled "Figure 1" and "Figure 2." In the final Office action mailed on May 12, 2010, the examiner made four (4) objections to the drawings under 37 C.F.R. § 1.83(a), and four (4) objections to the specification under 37 C.F.R. § 1.75(d)(1) in paragraphs 13 and 14.

Regarding the objections to the drawings, 37 C.F.R. § 1.83 states:

> 1.83 **Content of drawing.**
>
> (a)The drawing in a nonprovisional application **must show every feature of the invention specified in the claims**. However, conventional features disclosed in the description and claims, where their detailed illustration is not essential for a proper understanding of the invention, should be illustrated in the drawing in the form of a graphical drawing symbol or a labeled representation (*e.g.*, a labeled rectangular box). [Emphasis added.]

In paragraph 9 (a.) of the final office action, the examiner objected to the drawings because they failed to show the "power line communications (PLC)" and "DRM expiration time of the copy of managed original content is selectively reset" as set forth in claim 1, "predetermined location in the system" as set forth in claim 3, and "expected period between battery chargings" as set forth in claim 7.

Regarding the drawings objection on the PLC, applicant argues on page 2 of the petition that, *"[c]ontrary to the objection to the drawings, a PLC is shown in figure 1 and described on page 5 of the specification (it can be the primary communication system.)" A review of both drawings reveals that the drawings do not show, state, or numerically indicate "powerline communications (PLC) principles."* Further, a review of page 5 in the original specification finds no discussion of "powerline communications (PLC) principles." Page 5 in the specification discusses "the primary communications system **16** ...." Because "power line communications (PLC)" principles is a feature of the invention specified in at least claim 1, this feature must be shown as required by rule 37 CFR 1.83 (a). Therefore, applicant's arguments are not persuasive. Accordingly, applicant's request to vacate the objection to the drawings on this issue is **denied**.

Regarding the drawings objection on the DRM expiration time being selectively reset, applicant argues that *"Contrary to the objection to the drawings, selective resetting of the timer is shown in figure 2, decision diamond 48 (unambiguously showing conditional, and hence selective, resetting)." A review of figure 2 shows item **42** in diamond shaped box with the label "time up?" However determining whether or not the timer has expired or is "up" is not necessarily the same as selectively resetting the timer or "DRM expiration time of the copy of managed original content is selectively reset."* Clearly one of ordinary skill in the art can determine whether or not the timer has expired without resetting the timer. Because "DRM expiration time of the copy of managed original content is selectively reset" is a feature of the invention specified in at least claim 1 but is not shown in figure 2, applicant's arguments are not persuasive. Therefore, applicant's request to vacate the objection to the drawings on this issue is **denied**.

As for the drawings objection related to the feature "predetermined location in the system", applicant argues that *"a 'predetermined location in the system' is shown in the various components of figure 1, which shows various locations for electronic data storage, any one of which may be used as the predetermined location." A review of figure 1 finds many potential elements for electronic data storage: electronic data storage may be "removable media drive" **20**, "removable media" **22**, "removable media drive" **30**, and "removable media" associated with "computer #N".* According to applicant's arguments, any one of these locations could serve as the "predetermined location." Claim 3 states that:

> the expiration time is reset only if digital rights management (DRM) information associated with the original content is recognized at an appropriate, or expected a predetermined location in the system, and if not, the expiration time is not reset when the component is engaged with the cradle.

Per applicant's arguments, the "expiration time is reset only if digital rights management (DRM) information associated with the original content is recognized at" "any one of the various locations for electronic data storage." This interpretation of claim 3, however, is not supported

by the original specification. A review of the specification finds no disclosure of determining whether or not to reset the timer based upon the DRM being within the "removable media drive" 20. Moreover, the drawing figure 1 does not show that any of the various locations as argued by applicant are "predetermined." For the foregoing reasons, applicant's request to vacate the objection to the drawing on this issue is **denied**.

As for the drawings objection on the feature of "expected period between battery chargings" recited in claim 7, applicant argues that *" 'Expected period between battery charging' is a parameter used to establish the timer, and being a time period is not readily amenable to visual depiction."* Applicant's arguments are not persuasive since a simple flow chart or box-like drawing indicating inputs into the timer's determination of whether or not time has expired is capable of graphical depiction. Applicant can clearly show in flow chart form or in a box-like drawing how the expected period is determined by indicating what factors are considered when determining the expected period between battery chargings. For the stated reasons, applicant's request to vacate the objection to the drawings on this issue is **denied**.

Regarding the objections to the specification, a review prosecution history reveals that in paragraph nos. 13 and 14 of the final Office action, the examiner provided a separate section describing the objections to the specification under 37 C.F.R. § 1.75(d)(1) and MPEP § 608.01(o). Applicant argues on page 2 of the petition in the section titled "***The Specification***," *"[t]he complaints about lack of antecedent basis for various terms in the specification is discussed in the various portions of the appeal brief dealing with the same issues which are incorporated herein."*

Initially, it is noted that in petitions under 37 C.F.R. § 1.181, it is improper to incorporate by reference into the petition references to an appeal brief. See 37 C.F.R. § 1.181(a) which states "[b]riefs or memoranda, if any, in support thereof should accompany or be embodied in the petition ...."

Regarding the objection to the specification on the term "predetermined location" recited in claims 3 and 9, applicant argues on page 2 of the petition that *"With respect to "predetermined location" in Claims 3 and 9, please see the second paragraph of page 8, describing recognizing whether keys are at an expected or appropriate location. Both locations manifestly must be 'predetermined' in that unless it has been determined what the expected or appropriate location, the taught determination could not be made."* A review of page 8 in the specification finds that "keys [being at] an expected or appropriate location" are not discussed. A further review of the specification finds that a "predetermined location" is not discussed anywhere in the original disclosure. It is noted that an expected or appropriate location is not necessarily a predetermined location. For example, while a location chosen at random may be expected or appropriate, the location may not necessarily be "predetermined."

A further review of the prosecution history reveals that "predetermined location" was added by amendment to claims 3 and 9 on February 18, 2010. MPEP §608.01(o) states that:

> New claims and amendments to the claims already in the application should be scrutinized not only for new matter but also for new terminology. While

> an Applicant is not limited to the nomenclature used in the application as filed, he or she should make appropriate amendment of the specification whenever this nomenclature is departed from by amendment of the claims so as to have clear support or antecedent basis in the specification for the new terms appearing in the claims.

Because the term "predetermined location" is considered new terminology which has no basis in the in the original disclosure, an objection to the specification in accordance to MPEP §608.01(o) is proper. Applicant's arguments, therefore, are not persuasive. As such, applicant's request to vacate the objections to the specification on this issue is **denied**.

Regarding the objection to the specification on the term "expected period", applicant argues that *"With respect to 'expected period' as recited in Claim 7, note that "expected length of time" appears in original Claim 2, among many other places in the original application. The original claims are part of the disclosure, In re Wertheim, 541 F.2d 257, 263. The examiner has offer up zero rationale or explanation for why the skilled artisan would fail to recognize that the original recitation of "expected" nevertheless was not in the original specification, the objection merits vacating."* Applicant appears to argue that expected period" is synonymous with "expected length of time." Because one of ordinary skill in the art understands that an expected period must be an expected length of time, applicant's arguments are persuasive. Therefore, applicant's request to vacate the objection to the specification on this issue is **granted**.

Regarding the objection to the specification on the term "signal", applicant argues that *"With respect to "signal" in Claim 7 (indicating engagement of a component with the cradle, please see the first full paragraph of page 8, describing several ways that a device (such as a server, for instance) can know that a component is in the cradle. It strains credulity that the skilled artisan would fail to understand that signals to this end were being exchanged, unless the examiner is of he opinion that the server and component possess sufficient artificial intelligence to verbally communicate with each other. Which in itself would be a signal of the aural genre."* A review of claim 7 finds that the phrase at issue is "before the elapse of the timer, receiving a signal indicating engagement of the component with a battery charging cradle ...." Initially, it is agreed that one of ordinary skill in this art understands that the various components as shown in figure 1 have handshaking communications. It is noted that handshaking communications are very old and well known in this art. This handshaking communication(s) between components appears to be the communications argued by applicant in this petition. However, the particular "signal" which is the subject of this particular objection to the specification must indicate engagement of the component with a battery charging cradle prior to the elapse of the timer. As such, the claimed "signal" can not be a handshaking signal.

Applicant further argues that the full paragraph of page 8 provides the necessary support to rebut this particular objection to the specification. The first full paragraph of page 8 of the original specification states that "In some implementations, the portable component 24 can be detected to be in its cradle 36 by the server 12. Or, the portable component 24/associated cradle 36 can seek out the server 12 when the component is being recharged to report status to the server 12. The cradle 36 may not possess a communication system, in which case the network connection to support the above logic could be between the component 24 and server 12 directly. As

mentioned above, any of the secondary communication systems may also be used for this purpose." A review of the first full paragraph of page 8 finds that cradle **36** may "seek out the server 12 when the component is being recharged in order to report its status to server 12." Thus, prior to the actual reporting of the status to server **12**, the first full paragraph of page 8 supports a position that server **12** need not necessarily be aware that cradle **36** is in fact engaged. The decision on this issue need not rely on this fact. Since the first full paragraph of page 8 does not discuss receiving the signal of engagement before the elapse of the timer, applicant's arguments are not persuasive. Therefore, applicant's request to vacate the objections to the specification on this issue is **denied**.

As for the objection to the use of the plural flow charts, applicant argues that *"With respect to the use of the plural to refer to "flow chart." followed by the allegation that the examiner can find only a single flow chart, namely, "figure 1", the objection is based on a clearly erroneous finding of fact. As stated on page 3, line 9, figure 1 is not a flow chart, but a block diagram, and on that basis the objection merits vacating. Petitioner recognizes that this argument is somewhat straining of gnats but a hyper-argumentative objection to a specification for using a plural when it might have used the singular invites such responses."* A review of the drawings indicates that figure 1 is a block diagram while figure 2 is a flow chart. While applicant is correct that figure 1 is not a flow chart, the application nevertheless still has a single flow chart (i.e. figure 2). As such, applicant's argument is not persuasive. For the stated reasons, applicant's request to vacate the objections to the specification on this issue is **denied**.

Any questions regarding this decision should be directed to Supervisory Patent Examiner Andrew Fischer at (571) 272-6779.

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af/lm: 8/1/2011

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/403,753	04/13/2006	Robert Hardacker	50V8287.02	9171

36738 7590 12/07/2011
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EXAMINER
MCINTYRE, CHARLES AARON

ART UNIT	PAPER NUMBER
3621	

MAIL DATE	DELIVERY MODE
12/07/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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In re Application of: Robert Barracker et al.	: DECISION ON PETITION
Appl. No. 11/403,753	: UNDER 37 C.F.R. § 1.81
Filed: April 13, 2006	:
For: SYSTEM AND METHOD FOR	:
AUTOMATICALLY UPDATING	:
TIMED DRM KEYS	:

This is in response to applicants' petition under 37 CFR 1.181 filed on June 10, 2011 requesting that the supplemental examiner's answer mailed June 6, 2011 be vacated.

The petition is **Granted to the extent stated below.**

The record reflects that a final Office action was mailed on May 12, 2010. Applicants filed a notice of appeal and an appeal brief on August 4, 2010. An examiner's answer was mailed on March 31, 2011. A reply brief was filed on April 1, 2011 following by a supplemental examiner's answer dated June 7, 2011. Applicants filed the present petition on June 10, 2011. A second reply brief was filed on August 4, 2011 responding to the supplemental examiner's answer dated June 6, 2011.

Applicants argue on page 2 of the petition that the supplemental examiner's answer introduced "a host of new references" which applicants did not have an opportunity to consider. While applicants do not provide at least one name of the reference which applicant believes was new, a review of the supplemental examiner's answer finds that the examiner introduced the Logvinov reference on page 21. Because the Loginov reference was not made of record prior to the appeal, it is improper for the examiner to include the Loginov reference in the examiner's answer. Applicants' argument is persuasive. The supplemental examiner's answer mailed June 6, 2011 is hereby withdrawn.

Because the USPTO does not ordinarily vacate an examiner's correspondence, applicants' request to vacate the supplemental examiner's answer is considered to be a request to withdraw the supplemental examiner's answer.

This application is being forwarded to the examiner to consider both reply brief of April 1, 2011, and the second reply brief of August 4, 2011.

Any questions regarding this decision should be directed to Supervisory Patent Examiner Andrew Fischer at (571) 272-6779.

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wc/af: 11/29/11

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OFFICE OF PETITIONS

In re Application of	:	
Kajekar et al.	:	
Patent Number: 8,078,679	:	DECISION ON
Issue Date: 12/13/2011	:	APPLICATION FOR
Application No. 11/403794	:	PATENT TERM ADJUSTMENT
Filing or 371(c) Date: 04/12/2006	:	
Attorney Docket Number:	:	
26310-0236001 / 846764	:	

This is a decision on the petition filed on February 13, 2012, requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by six hundred seventy-three (673) days. The petition is properly treated under 37 CFR 1.705(d).

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by six hundred seventy-three (673) days is **GRANTED TO THE EXTENT INDICATED**.

Patentee provides that the Office erred calculating a reduction of two (2) days in connection with the filing of a reply to an Office action mailed December 28, 2009, on March 30, 2010, three months and two (2) days after the mail date of the Office action. Patentee asserts that because the due date for the reply, March 28, 2010, fell over a weekend, the three (3) month date for the reply should be calculated from Monday, March 29, 2010, and the period of reduction should be one (1) day, and not two (2) days, as intended by 35 U.S.C. 154(b)(2)(C)(ii). Patentee references 37 CFR 1.704(b).

Patentee also asserts that the Office erred in subtracting from the "B" Delay period time that was not consumed by continued examination. Patentees filed, inter alia, Requests for Continued Examination ("RCE"), on May 26, 2009 and March 30, 2010. This Office mailed a Notice of Allowance and Issue Fee Due on August 3, 2011. Patentees request an additional one hundred thirty-two (132) days of patent term adjustment in the period beginning on the date that the Notice of Allowance and Issue Fee Due was mailed, and ending on the date the patent issued, December 13, 2011. Patentees aver that with the mailing of the Notice of Allowance on August 3, 2011, the Office closed examination on the present application on that date, and no continued examination took place in the 132-day period from the mailing date of the Notice of Allowance and Issue Fee Due, to the issuance of the patent. Accordingly, Patentees aver that 132 days of B

Delay should have been included in the period of delay accorded the Director, and that the "B Delay" for issuance of the patent beyond three years from filing is 175 days, instead of 43 days.

Patentee's arguments have been carefully considered. Regarding the reduction of two (2) days in connection with the filing of a reply to an Office action mailed December 28, 2009, on March 30, 2010, three months and two (2) days after the mail date of the Office action, Office records confirm that the due date for the reply, March 28, 2010, fell over a weekend, and a reduction of one (1) day pursuant to 37 CFR 1.704(b) is appropriate.

Regarding the assertion that that the Office erred in subtracting from the "B" Delay period the period beginning on the date that the Notice of Allowance and Issue Fee Due was mailed, and ending on the date the patent issued, counting the period of time excluded from the "B delay" for the filing of a request for continued examination under 35 U.S.C. 132(b), from the date on which the request for continued examination is filed to the date the patent is issued is proper. Patentee does not dispute that time consumed by continued examination of an application under 35 U.S.C. 132(b) is properly excluded and that the calculation of the excluded period begins on the date of filing of the request for continued examination. At issue is what further processing or examination beyond the date of filing of the request for continued examination is not any time consumed by continued examination of the application under 35 U.S.C. 132(b). The USPTO indicated in September of 2000 in the final rule to implement the patent term adjustment provisions of the AIPA that once a request for continued examination under 35 U.S.C. 132(b) and 37 CFR 1.114 is filed in an application, any further processing or examination of the application, including granting of a patent, is by virtue of the continued examination given to the application under 35 U.S.C. 132(b) and CFR 1.114. See Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term, 65 Fed. Reg. 56366, 56376 (Sept. 18, 2000) (response to comment 8). Thus, the excluded period begins with the filing of the request for continued examination and ends with the issuance of the patent.

Patentee's argument that the period of time after the issuance of a notice of allowance on a request for continued examination is not "any time consumed by continued examination requested by the applicant under section 132(b)" within the meaning of 35 U.S.C. 154(b)(1)(B)(i) is not availing. This limitation is not supported by the statutory language. Garcia v. United States, 469 U.S. 70, 75 (1984) ("only the most extraordinary showing of contrary intentions from [legislative history] would justify a limitation on the 'plain meaning' of the statutory language"). BP Am. Prod. Co. v. Burton, 549 U.S. 84, 91 (2006) ("Unless otherwise defined, statutory terms are generally interpreted in accordance with their ordinary meaning"). The statute provides for a guarantee of no more than 3-year application pendency, by providing for an adjustment in the patent term:

First, "Subject to the limitations of paragraph (2)," means that the limitations of paragraph 2 apply to this paragraph's adjustment of patent term. That is, the day-to-day extension of patent term for pendency beyond the 3 year period is restricted as follows: 1) "B delay" cannot accrue for days of "A delay" that overlap, 2) the patent term cannot be extended beyond disclaimed

term, and 3) the period of adjustment, including accrued "B delay," will be reduced for applicant delay.

Second, "if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States," meaning that the condition must first occur that the issuance of an original patent (35 U.S.C. 153), not merely the issuance of a notice of allowance, is delayed due to the Office's failure to issue a patent (sign and record a patent grant in the name of the United States), not merely mail a notice of allowance, within 3 years after the actual filing date of the application in the United States. This provision gives the Office a three-year period to issue a patent (sign and record a patent grant in the name of the United States) after the application filing date before an adjustment will accrue for "B delay."

Third, "not including- (i) any time consumed by continued examination of the application requested by the applicant under section 132(b); (ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or (iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), meaning that the three-year period does not include "any time consumed by" or "any delay in processing," as specified in clauses (i)-(iii). This language correlates to 35 U.S.C. 154(b)(1)(A) which likewise provides the basis for determining the period given the Office to take the specified actions before an adjustment will accrue for "A delay" (e.g., extended for 1 day after the day after the period specified in clauses (i)-(iv)).

Furthermore, these clauses are interpreted using their ordinary meanings. Nonetheless, the context of the legislation should be considered. As stated in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008), because the clock for calculating the 20-year patent term begins to run on the filing date, and not on the day the patent is actually granted, some of the effective term of a patent is consumed by the time it takes to prosecute the application. To mitigate this effect, the statute, *inter alia*, grants adjustments of patent term whenever the patent prosecution takes more than three years, regardless of the reason. The time consumed by prosecution of the application includes every day the application is pending before the Office from the actual filing date of the application in the United States until the date of issuance of the patent. The time it takes to prosecute the application ends not with the mailing of the notice of allowance, but with the issuance of the patent.

Thus, not including "any time consumed by" means not including any days used to prosecute the application as specified in clauses (i)-(ii)[1]. Clause (i) specifies "any time consumed by continued

[1] Clause (iii) provides for not including (iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued. It is noted that paragraph (3)(C) allows with an adequate showing by applicant for reinstatement of no more than 3 months of the patent term reduced for applicant delay in taking in excess of three months to respond.

examination of the application requested by the applicant under section 132(b)." Clause (ii) specifies "any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court." "Time" in the context of this legislation throughout refers to days. "Consumed by" means used by or used in the course of. *Websters Collegiate Dictionary*, (11th ed.). The "any" signifies that the days consumed by are "any" of the days in the pendency of the application, and not just days that occur after the application has been pending for 3 years. As such, "any time consumed by" refers to any days used in the course of 1) continued examination of the application under section 132(b)(the filing of a request for continued examination), 2) interference proceedings, 3) secrecy orders, and 4) appellate review. Thus, that 3-year period given to the Office to issue a patent before an adjustment will accrue for "B delay" does not include any days used in the course of or any time consumed by clauses (i)-(ii), including any time consumed by the filing of a request for continued examination.

Fourth, "the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued" meaning that the consequence of this failure is that after "the end of that 3-year period" an additional 1 day of patent term will accrue for each day that the application is pending until the day the patent is issued.

The "time consumed by" or used in the course of the continued examination of the application requested by the applicant under section 132(b) does not end until issuance of the patent. 35 U.S.C. 132(b) was enacted under the same title, the "American Inventors Protection Act of 1999," as 35 U.S.C. 154(b). Section 4403 of the AIPA amended 35 U.S.C. § 132 to provide, at the request of the applicant, for continued examination of an application for a fee (request for continued examination or RCE practice), without requiring the applicant to file a continuing application under 37 CFR 1.53(b) or a continued prosecution application (CPA) under 37 CFR 1.53(d). Thus, clause (i) is different from clause (ii) in that clause (i) refers to an examination process whereas clause (ii) refers to time consumed by proceedings (interferences, secrecy orders and appeals) in an application.

By nature, the time used in the course of the examination process continues to issuance of the patent. The examination process involves examining the application to ascertain whether it appears that the applicant is entitled to a patent under the law. See 35 U.S.C. 131 ("[t]he Director shall cause an examination to be made of the application and the alleged new invention; and if on such examination it appears that the applicant is entitled to a patent under the law, the Director shall issue a patent therefor"). If on examination it appears that the applicant is entitled to a patent, the USPTO issues a notice of allowance. See 35 U.S.C. 151 ("[i]f it appears that applicant is entitled to a patent under the law, a written notice of allowance of the application shall be given or mailed to the applicant"). If on examination it appears that the applicant is not entitled to a patent, the USPTO issues a notice (an Office action) stating the applicable rejection, objection, or other requirement, with the reasons therefor. See 35 U.S.C. 132 ("[w]henever, on examination, any claim for a patent is rejected, or any objection or requirement made, the

Director shall notify the applicant thereof, stating the reasons for such rejection, or objection or requirement, together with such information and references as may be useful in judging of the propriety of continuing the prosecution of his application"). Neither the issuance of a notice of allowance nor the insurance of an Office action terminates the examination process. If after the issuance of an Office action under 35 U.S.C. 132 it subsequently appears that the applicant is entitled to a patent (e.g., in response to an argument or amendment by the applicant), the USPTO will issue a notice of allowance. Conversely, if after the issuance of a notice of allowance under 35 U.S.C. 151 it subsequently appears that the applicant is not entitled to a patent (e.g., in response to information provided by the applicant or uncovered by the USPTO), the USPTO will withdraw the application from issuance and issue an Office action under 35 U.S.C. 132 stating the applicable rejection, objection, or other requirement, with the reasons therefor.

As held in Blacklight Power, the USPTO's responsibility to issue a patent containing only patentable claims does not end with the issuance of a notice of allowance under 35 U.S.C. 151. See BlackLight Power, Inc. v. Rogan, 295 F.3d 1269, 1273 (Fed. Cir. 2002). Rather, if there is any substantial, reasonable ground within the knowledge or cognizance of the Director as to why an application should not issue, it is the USPTO's duty to refuse to issue the patent even if a notice of allowance has previously been issued for the application. See In re Drawbaugh, 9 App. D.C. 219, 240 (D.C. Cir 1896).

Moreover, the applicant continues to be engaged in the examination process after the mailing of the notice of allowance. 37 CFR 1.56 makes clear that the applicant has a duty to disclose information material to patentability as long as the application is pending before the USPTO (i.e., until a patent is granted or the application is abandoned). See 37 CFR 1.56(a) ("[t]he duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned"). 37 CFR 1.97 and 1.98 provide for the consideration of information submitted by the applicant after a notice of allowance has been mailed. See 37 CFR 1.97(d). In addition, 37 CFR 1.312 provides for the amendment of an application after a notice of allowance has been mailed. In fact, the request for examination procedures[2] permit the filing of a request for continued examination under 37 CFR 1.114 even after the issuance of a notice of allowance under 35 U.S.C. 151. See 37 CFR 1.114(a)(1).

As the examination process does not terminate with the mailing of the notice of allowance, the time consumed by continued examination requested by the applicant under section 132(b) does 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).

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[2] Thus, on occasion, even where a request for continued examination has already been filed and a notice of allowance issued pursuant to that request, applicant may file a further request for continued examination.

All of the continued examination pursuant to the filing of the request by the applicant is properly excluded from the delay attributed to the Office. 35 U.S.C. 154(b)(1)(B)'s guarantee of a total application pendency of no more than three years provides for adjustment of the patent term for delay due to the Office's failure to issue the patent within three years, but does not include "any time consumed by continued examination requested by the applicant under 35 U.S.C. 132(b)." It is not necessary to mitigate the effect on the 20-year term to the extent that applicant has requested that the Office continue to examine the application via a request for continued examination, in lieu of, the filing of a continuing application under 37 CFR 1.53(b).

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period begins on April 13, 2009, and ends on May 25, 2009, the day before the RCE, filed May 26, 2009, was filed, and is 43 days. See, 35 U.S.C. 154(b)(1)(B)(i).

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 **five hundred thirty-nine (539) days** (adjustments of 581 days less reductions of 42 days).

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3232.

/DLW/

Derek L. Woods
Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 8,078,679 B2

DATED : **December 13, 2011**

INVENTOR(S) : Kajekar 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 538 days.

Delete the phrase "by 538 days" and insert – by 539 days--

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DEC 13 2010
OFFICE OF PETITIONS

MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

In re Application of :
Relan et al. :
Application No. 11/403,883 :
Filed: April 14, 2006 :
Attorney Docket No. 20246US02 :
For: SELECTIVELY APPLYING :
SPOTLIGHT AND OTHER EFFECTS :
USING VIDEO LAYERING :

ON APPLICATION FOR
PATENT TERM ADJUSTMENT

This is in response to the "APPLICATION FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 35 U.S.C. 154(b) ACCOMPANYING OF NOTICE OF ALLOWANCE (37 CFR §1.705)" filed November 10, 2010. This request is properly treated under 37 CFR 1.705(b). Applicants request that the determination of patent term adjustment be corrected from seven hundred forty-four (744) days to one thousand two hundred eighty-three (1,283) days.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of

issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

---

[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.

To the extent that applicant otherwise requests reconsideration of the patent term adjustment at the time of the mailing of the notice of allowance, the application for patent term adjustment is **DISMISSED** to the extent indicated herein.

On August 10, 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 744 days. The instant application for patent term adjustment was timely filed on November 10, 2010.

Applicants contend that a 2-day reduction for the submission of the reply to the non-final Office action November 30, 2009 should not be assessed. Applicants maintain that since the response was submitted on the first business day after the deadline falling on a weekend the reply was not late and no reduction is required.

The Office has considered applicant's argument but does not find it persuasive. The Office has concluded that the reduction of 2 days was properly entered based on 37 CFR 1.704(b). 37 CFR §1.704(b) provides:

> 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.

In this instance, a reduction of 2 days for the submission of reply on November 30, 2009 is warranted. The PTA was properly reduced by 2 days, the number of days in excess of three months that was taken to reply to the August 28, 2009 Office action. The fact that a reply could be filed on November 30, 2009 and be deemed timely to avoid abandonment does not establish a reduction is not warranted. The actual date of receipt of the

correspondence in the Office is used for all other purposes. The Office notes that the date of filing of a paper will be used in calculating any periods of reduction of patent term adjustment. If applicant wanted to avoid a reduction applicant should have considered the use of the "Express Mail Post Office to Addressee " service of the United States Postal Service (37 CFR 1.10) or facsimile transmission (37 CFR 1.6(d)) for replies to be accorded the earliest possible filing date for patent term adjustment calculations. Alternatively, applicant could have chosen to mail correspondence with sufficient time to ensure that the correspondence is received in the Office (and stamped with a date of receipt) before the expiration of the three-month period. See MPEP 2731. As such the 2 day reduction will not be removed.

Applicants also dispute the 60 day reduction for the July 22, 2010 submission of the reply to the final Office action. Applicants contend a reduction of 59 days, instead of 60 days is required.

However, a review of the record shows that a 60 day reduction is warranted. An amendment filed on May 24, 2010 was not in compliance with 37 CFR 1.113(c), the period for reply to the final Office action mailed February 23, 2010 continued to run. The proper reply, an amendment which placed the application in condition for allowance, was not received in the Office until July 22, 2010. Pursuant to 37 CFR 1.704(b), the application is subject to a reduction of 60 days for applicant delay for the period beginning on May 24, 2010, the day after the date that is three months after the mailing of the final Office action, and ending on July 22, 2010, the date the reply in compliance with 37 CFR 1.113(c) was filed. As such the 60 day reduction will not be removed.

Applicants' delay prior to the mailing of the Notice of Allowance is 62 days. Office delay prior to the mailing of the Notice of Allowance is 806 days.

In view thereof, the determination of PTA at the time of the mailing of the notice of allowance is seven hundred forty-four **(744)** days.

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months

after issuance pursuant to 37 CFR 1.705(d) and **must** include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Charlema Grant at (571) 272-3215.

Anthony Knight
Director
Office of Petitions

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

Date: March 7, 2011

Patent No. : 7,820,729 B2
Application No.: 11/403,996
Issued : October 26, 2010
Inventor : Akay, et al.
Title : **PROCESS FOR PREPARING A FUNCTIONALISED POLYHIPE POLYMER**

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.

Respecting the alleged errors, in columns 4, 7, 18, 21, and 24, lines 27, 28, 54, 52, 5, 26, 45 and 6, is printed accordance with the record. 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.) R1.322.

In view of the foregoing, your request is hereby denied again.

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

Harness, Dickey & Pierce, P.L.C.
P. O. Box 828
Bloomfield Hills, MI 48303

vj/MFD

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SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS MN 55402

In re Patent No. 7,406,392	:	
Issued: July 29, 2008	:	
Application No. 11/404,047	:	NOTICE
Filed: April 13, 2006	:	
Attorney Docket No. 1569.003US3	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed September 4, 2009 and November 9, 2011.

On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Additionally, petitioner has submitted $720.00 towards the required $790.00 deficiency fee, thus creating a $70.00 shortage. This amount has been charged to petitioner's deposit account as authorized September 4, 2009 and again on November 9, 2011.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

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PATENTRY
P.O. BOX 151616
SAN RAFAEL, CA 94915-1616

MAILED
AUG 23 2010
OFFICE OF PETITIONS

In re Application of :
David Romrell :
Application No. 11/404,049 : ON PETITION
Filed: April 13, 2006 :
Attorney Docket No. 30015-017001 :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed July 16, 2010, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed July 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 above-identified application became abandoned on October 16, 2009.

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 $1730 extension of time submitted on February 12, 2010 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's credit card.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2475 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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Muncy, Geissler, Olds & Lowe, PLLC
4000 Legato Road
Suite 310
FAIRFAX VA 22033

MAILED

NOV 22 2010

OFFICE OF PETITIONS

In re Application of	:	
Rong-Sen Yang, et al.	:	
Application No. 11/404,087	:	ON PETITION
Filed: April 14, 2006	:	
Attorney Docket No. 5545/0495PUS1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 29, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of May 9, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). A one (1) month extension of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is September 10, 2010. The Notice of Abandonment was mailed December 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 a Request for Continued Examination (RCE) and fee of $$405, and the submission required by 37 CFR 1.114; (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-2991.

This application is being referred to Technology Center AU 3774 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

cc: **Joe McKinney Muncy**
PO Box 1364
Fairfax, VA 22038-1364

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MARGARET ANDERSON
106 E. 6TH STREET, SUITE 900
AUSTIN TX 78701

MAILED

MAR 11 2011

OFFICE OF PETITIONS

In re Application of Levien et al. Application No. 11/404,104 Filed: April 13, 2006 Attorney Docket No. QQ1-0094US	: : : : :	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 26, 2011.

The request is **NOT APPROVED**.

The Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest *who properly became of record under 37 CFR 3.71,* or, if no assignee of the entire interest has properly been made of record, the most current address information provided for the first named inventor. 37 CFR 3.71(c) states:

An assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement in compliance with § 3.73(b) that is signed by a party who is authorized to act on behalf of the assignee.

According to a review of current USPTO records petitioner has not requested the address be changed to a properly recorded assignee or the first listed inventor. The Customer Number 55922 is neither the first named inventor nor the assignee who properly became of record under 37 CFR 3.71 As such, all future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Further, the address given on the petition differs from the address of record. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Currently, a Notice of Panel Decision from Pre-Appeal Brief Review was mailed February 24, 2011 in the above-identified application.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-7751.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: LEE & HAYES, PLLC
601 W RIVERSIDE
SUITE 1400
SPOKANE, WA 99201

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APR 14 2011

PCT LEGAL ADMINISTRATION

WOLF GREENFIELD & SACKS, P.C.
600 Atlantic Avenue
Boston, MA 02210-2206

In re Application of
Hoffman et al
Application No. 11/404,206
Filed: 14 March 2006
Attorney Docket No. S1398.70004US01

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition under 37 CFR 1.78(a)(3), filed 09 March 2010, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of the prior-filed nonprovisional applications set forth in the concurrently filed amendment and supplemental application data sheet (ADS).

The petition is **DISMISSED**.

The present nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition does not comply with item (1)

37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or

more prior-filed copending nonprovisional applications must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional application. As stated in MPEP 201.11:

> *Sometimes a pending application is one of a series of applications wherein the pending application is not copending with the first filed application but is copending with an intermediate application entitled to the benefit of the filing date of the first application. If applicant wishes that the pending application have the benefit of the filing date of the first filed application, applicant must, besides making reference to the intermediate application, also make reference to the first application. See Sticker Indus. Supply Corp. v. Blaw-Knox Co., 405 F.2d 90, 160 USPQ 177 (7th Cir. 1968) and Hovlid v. Asari, 305 F. 2d 747, 134 USPQ 162 (9th Cir. 1962). The reference to the prior applications must identify all of the prior applications and indicate the relationship (i.e., continuation, divisional, or continuation-in-part) between each nonprovisional application in order to establish copendency throughout the entire chain of prior applications. Appropriate references must be made in each intermediate application in the chain of prior applications. If an applicant desires, for example, the following benefit claim: "this application is a continuation of Application No. C, filed ---, which is a continuation of Application No. B, filed ---, which claims the benefit of provisional Application No. A, filed ---," then Application No. C must have a reference to Application No. B and provisional Application No. A, and Application No. B must have a reference to provisional Application No. A.* (Emphasis added).

In the present case, intermediate applications 09/284,598 and 10/628,094 do not contain the references to the prior filed applications for which benefit in the present case is sought.

Accordingly, before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition under 37 CFR § 1.78(a)(3) and correction of the above noted defect is required.

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
PCT Legal Examiner
Office of PCT Legal Administration
(571) 272-3288

UNITED STATES PATENT AND TRADEMARK OFFICE

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WOLF GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON MA 02210-2206

MAILED

DEC 19 2011

OFFICE OF PETITIONS

In re Application of	:
HOFFMAN et al.	:
Application No. 11/404,206	: DECISION ON PETITION
Filed: April 14, 2006	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No.: S1398.70004US01	:

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed August 2, 2011 to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed with the petition.

The petitions are **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed applications. In order for this application to be entitled to the

benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional applications, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Jose' G Dees at (571) 272-1569. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 2612 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed applications.

Boris Milef
PCT Legal Examiner
Office of PCT Legal Administration

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
11/404,206	04/14/2006	2612	500	S1398.70004US01	1	1

CONFIRMATION NO. 2395

CORRECTED FILING RECEIPT

23628
WOLF GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON, MA 02210-2206

OC000000051539980

Date Mailed: 12/16/2011

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)

Mark Hoffman, Medfield, MA;
Judd Hoffman, Medfield, MA;
Ann Hoffmann, Stoughton, MA;
David Doe, Walpole, MA;

Assignment For Published Patent Application

Hoffman Resources LLC, Boston, MA

Power of Attorney: None

Domestic Priority data as claimed by applicant

This application is a CON of 10/628,094 07/25/2003 PAT 7038590
which is a CON of 09/284,598 04/16/1999 PAT 6624754
which is a 371 of PCT/US98/00896 01/20/1998
which is a CIP of 08/881,054 06/24/1997 PAT 6239700
and is a CIP of 08/786,411 01/21/1997 PAT 5742233

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If Required, Foreign Filing License Granted: 05/19/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/404,206**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

** SMALL ENTITY **

Title

PERSONAL SECURITY AND TRACKING SYSTEM

Preliminary Class

340

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.

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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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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/404,212	04/14/2006	Jonathan Dewey	MSDI-1001/P24518.00	7255

52196 7590 09/30/2010
MEDTRONIC
Attn: Noreen Johnson - IP Legal Department
2600 Sofamor Danek Drive
MEMPHIS, TN 38132

EXAMINER
ARAJ, MICHAEL J

ART UNIT	PAPER NUMBER
3775	

MAIL DATE	DELIVERY MODE
09/30/2010	PAPER

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MEDTRONIC
Attn: Noreen Johnson - IP Legal Department
2600 Sofamor Danek Drive
MEMPHIS TN 38132

In re Application of:
DEWEY, JONATHAN
Serial No. 11/404,212
Filed: April 14, 2006
Docket: MSDI-1001/P24518.00
Title: REDUCING DEVICE

DECISION ON PETITION
UNDER 37 CFR § 1.181

This is a decision on the petition filed September 24, 2010 under 37 CFR 1.181 requesting withdrawal of the finality of the last Office action mailed on July 21, 2010.

The petition is **granted.**

In finding petitioner's points of argument persuasive, the requested relief is granted. As such, the finality of the Office actions issued on July 21, 2010 is premature and the finality of the Office action is hereby withdrawn. The Office action mailed on July 21, 2010 will be designated as a non-final Office action. Since the finality is being withdrawn, any amendment filed in response to the Office action of July 21, 2010 will be treated as a 37 CFR § 1.111 amendment. The period to respond to the last Office action of July 21, 2010 remains unchanged.

The application is being forwarded to the examiner via the Supervisory Patent Examiner of the Art Unit 3775 awaiting the applicant's response to the last Office action. Any inquiry regarding this decision should be directed to Henry C. Yuen, Special Programs Examiner, at (571) 272-4856.

PETITION GRANTED.

Angela D. Sykes, Director
Technology Center 3700

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/404,213	04/14/2006	Michael Kyba	UTSD:1715	2328

23379 7590 12/01/2011
RICHARD ARON OSMAN
3525 Del Mar Heights Rd. #915
San Diego, CA 92130

EXAMINER
SINGH, ANOOP KUMAR

ART UNIT	PAPER NUMBER
1632	

NOTIFICATION DATE	DELIVERY MODE
12/01/2011	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

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Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):
RICHARD@SCI-TECH.COM

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DEC - 1 2011

RICHARD ARON OSMAN
3525 Del Mar Heights Rd. #915
San Diego CA 92130

In re Application of:	:
Kyba et al.	: PETITION DECISION
Serial No.: 11/404,213	:
Filed: April 14, 2006	:
Attorney Docket No.: **UTSD: 1715**	

This is in response to the petition filed by appellants under 37 CFR § 1.181(a) on August 14, 2011, requesting that the examiner rescind the Office action of July 8, 2011 and allow claim 5.

BACKGROUND

Relevant parts of the prosecution history are summarized below.

On April 2, 2010, an Examiner's Answer was mailed by the examiner. In this Examiner's Answer, the examiner rejected claims 1, 4, 6, 19-20 and 21 under 35 U.S.C. 103(a) as being unpatentable over Largman et al., Manferedini et al., NCBI accession number and Gandhi et al. Claims 2 and 3 were rejected under 35 U.S.C. 103(a) as being unpatentable over Largman et al., Manferedini et al., NCBI accession number and Gandhi et al. as applied to claims 1, 4-6 above, and further in view of Lois et al. Claim 2 was rejected under 35 U.S.C. 103(a) as being unpatentable over Largman et al., Manferedini et al., NCBI accession number and Gandhi et al. as applied to claims 1, 4-6 above, and further in view of Banu et al. Claim 8 was rejected under 35 U.S.C. 103(a) as being unpatentable over Largman et al., Manferedini et al., NCBI accession number and Gandhi et al. as applied to claims 1, 4-6 above, and further in view of Bischof et al. Claims 1, 4-6 were rejected under 35 U.S.C. 103(a) as being unpatentable over Kyba et al., Manferedini et al., NCBI accession number and Ahmed et al. or Gandhi et al.

On May 1, 2010, appellants filed a Reply Brief.

On July 9, 2010, the examiner entered and considered the Reply Brief.

On February 25, 2011, the Board of Patent Interferences and Appeals (BPAI) issued a decision on appeal wherein the examiner was Affirmed-In-Part. Specifically, the BPAI affirmed all rejections except they reversed the rejection of claims 1 and 4-6 under 35 U.S.C. § 103(a) as unpatentable over Kyba, Manfredini, two NCBI accession numbers, and Ahmed or Gandhi.

The examiner mailed to appellants a non-final Office action on June 8, 2011. Claim 5 was rejected under 35 U.S.C. 103 (a) as being unpatentable over Largman et al., Manferedini et al. NCBI accession number, Gandhi et al, as previously applied to claim 1, and further in view of Kyba et al.

In response thereto, appellant filed this petition under 37 CFR § 1.181(a) on August 14, 2011, requesting that the examiner be directed to allow claim 5.

DISCUSSION

The petition and the file history have been carefully considered.

In the petition filed on August 14, 2011, appellants "... petition the Director to rescind the Office Action dated June 08,2011, and instead either: (1) convert claim 5 into independent form by examiner's amendment, cancel the other claims, and issue the application; or (2) invite appellant to rewrite claim 5 in independent form, which shall then be allowed to issue. The Board of Appeals reversed all rejections of dependent claim 5. Hence, the Examiner should convert the claim to independent form, or invite appellant to do the same, and pass the application to issue. MPEP 1214.06." Appellants also argue "Here there are no extraordinary circumstances. No newly arisen prior art. No new law. Rather, unwilling to accept the Board's vindication of claim 5, the Examiner seeks to retry the claim by reformulating his reversed rejection: instead of calling it Kyba et al., he calls it Largman et al. plus Kyba. Yes, after Decision, the Examiner seeks to reshuffle into a revised rejection the same art that was before and considered by the Board. The Board already considered claim 5, and the Board already considered all the art cited in the proposed new rejection. The Board certainly could have refashioned the art rejection of claim 5, and decided not to do so. The Examiner has no authority to side-step the Decision, however much he disagrees with it, and however much he thinks the Board should have rejected claim 5 on the art before it. The fact is that with all the cited art before it under active consideration, the Board decided to reverse the art rejection of claim 5, and elected not to impose a revised rejection."

Appellants' arguments have been accorded careful consideration but they are not persuasive.

Appellants should note MPEP 1214.04 which states:

> If the examiner has specific knowledge of the existence of a particular reference or references which indicate nonpatentability of any of the appealed claims as to which the examiner was reversed, he or she should submit the matter to the Technology Center (TC) Director for authorization to reopen prosecution under 37 CFR 1.198 for the purpose of entering the new rejection. See MPEP § 1002.02(c) and MPEP § 1214.07. The TC Director's approval is placed on the action reopening prosecution.

It is pointed out that the issuance of the non-final Office action of June 8, 2011 was authorized by the TC Group Director, Jacqueline Stone and the Supervisory Patent Examiner, Peter Paras. Applicants should further note that the substance of the Office action is rebuttable and since the Office action is a non-final action, applicants have an opportunity to respond. If applicants believe that an interview would help clarify the record, applicants are encouraged to contact the examiner.

DECISION

The petition is **DENIED.**

Any new or renewed petition must be filed within TWO MONTHS of the mail date of this decision.

Should there be any questions about this decision please contact 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.

Jacqueline Stone
Director, Technology Center 1600

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/404,213	04/14/2006	Michael Kyba	UTSD:1715	2328

23379 7590 01/24/2012
RICHARD ARON OSMAN
848 N. Rainbow Blvd #4305
Las Vegas, NV 89107

EXAMINER
SINGH, ANOOP KUMAR

ART UNIT	PAPER NUMBER
1632	

NOTIFICATION DATE	DELIVERY MODE
01/24/2012	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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JAN 2 4 2012

RICHARD ARON OSMAN
3525 Del Mar Heights Rd. #915
San Diego CA 92130

In re Application of:	:
Kyba et al.	: PETITION DECISION
Serial No.: 11/404,213	:
Filed: April 14, 2006	:
Attorney Docket No.: **UTSD: 1715**	

This is in response to the renewed petition filed by appellants under 37 CFR § 1.181(a) on December 4, 2011, requesting that the examiner rescind the Office action of July 8, 2011 and allow claim 5.

BACKGROUND

Relevant parts of the prosecution history are summarized below.

On April 2, 2010, an Examiner's Answer was mailed by the examiner. In this Examiner's Answer, the examiner rejected claims 1, 4, 6, 19-20 and 21 under 35 U.S.C. 103(a) as being unpatentable over Largman et al., Manferedini et al., NCBI accession number and Gandhi et al. Claims 2 and 3 were rejected under 35 U.S.C. 103(a) as being unpatentable over Largman et al., Manferedini et al., NCBI accession number and Gandhi et al. as applied to claims 1, 4-6 above, and further in view of Lois et al. Claim 2 was rejected under 35 U.S.C. 103(a) as being unpatentable over Largman et al., Manferedini et al., NCBI accession number and Gandhi et al. as applied to claims 1, 4-6 above, and further in view of Banu et al. Claim 8 was rejected under 35 U.S.C. 103(a) as being unpatentable over Largman et al., Manferedini et al., NCBI accession number and Gandhi et al. as applied to claims 1, 4-6 above, and further in view of Bischof et al. Claims 1, 4-6 were rejected under 35 U.S.C. 103(a) as being unpatentable over Kyba et al., Manferedini et al., NCBI accession number and Ahmed et al. or Gandhi et al.

On May 1, 2010, appellants filed a Reply Brief.

On July 9, 2010, the examiner entered and considered the Reply Brief.

On February 25, 2011, the Board of Patent Interferences and Appeals (BPAI) issued a decision on appeal wherein the examiner was Affirmed-In-Part. Specifically, the BPAI affirmed all rejections except they reversed the rejection of claims 1 and 4-6 under 35 U.S.C. § 103(a) as unpatentable over Kyba, Manfredini, two NCBI accession numbers, and Ahmed or Gandhi.

The examiner mailed to appellants a non-final Office action on June 8, 2011. Claim 5 was rejected under 35 U.S.C. 103 (a) as being unpatentable over Largman et al., Manferedini et al. NCBI accession number, Gandhi et al, as previously applied to claim 1, and further in view of Kyba et al.

In response thereto, appellant filed this petition under 37 CFR § 1.181(a) on August 14, 2011, requesting that the examiner be directed to allow claim 5.

DISCUSSION

The renewed petition and the file history have been carefully considered. In the petition filed on December 4, 2011, appellants argue "The Decision dated Dec 01, 2011 is procedurally improper and legal erroneous; we renew our Petition of Aug 14, 2011. The Decision is signed by the same TC Director who authorized and signed the subject rejection of Claim 5 - hence, the Decision does not reflect any meaningful review of the complained-of conduct. Appellants also point out that they "renew our Petition originally filed Aug 14, 2011, maintaining that on this record it is only shown that the Examiner would like to have another go at claim 5 by reshuffling art already considered by the Board, and that is insufficient cause to invoke the procedure of 37 CFR 1.198."

Appellants' arguments have again been accorded careful consideration but they are not persuasive for the same reasons previously set forth. Specifically, appellants should note MPEP 1214.04 which applies herein which
states:

> If the examiner has specific knowledge of the existence of a particular reference or references which indicate nonpatentability of any of the appealed claims as to which the examiner was reversed, he or she should submit the matter to the Technology Center (TC) Director for authorization to reopen prosecution under 37 CFR 1.198 for the purpose of entering the new rejection. See MPEP § 1002.02(c) and MPEP § 1214.07. The TC Director's approval is placed on the action reopening prosecution.

It is pointed out that the examiner had specific knowledge of the existence of particular references which indicated nonpatentability of claim 5. As a result, a non-final Office action of June 8, 2011 was issued which was authorized by the TC Group Director, Jacqueline Stone and the Supervisory Patent Examiner, Peter Paras. Applicants should again note that the substance of the Office action is rebuttable and since the Office action is a non-final action, applicants have an opportunity to respond. If applicants believe that an interview would help clarify the record, applicants are encouraged to contact the examiner.

DECISION

The petition is again **DENIED.**

Any new or renewed petition must be filed within TWO MONTHS of the mail date of this decision.

Should there be any questions about this decision please contact 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.

Jacqueline Stone
Director, Technology Center 1600

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OCT 28 2011
OFFICE OF PETITIONS

FISH & RICHARDSON P.C. (BO)
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

In re Patent of Schohn et al.	:
Patent No. 7,999,788	: DECISION ON REQUEST FOR
Issue Date: August 16, 2011	: RECONSIDERATION OF
Application No. 11/404,264	: PATENT TERM ADJUSTMENT
Filed: April 12, 2006	:
Attorney Docket No. 19647-0007001	:

This is a decision on the petition filed on October 17, 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 hundred ninety-six (196) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **DISMISSED.**

BACKGROUND

On August 16, 2011, the above-identified application matured into U.S. Patent No. 7,999,788, with a revised patent term adjustment of 774 days. On Monday, October 17, 2011, patentees timely submitted this request for reconsideration of patent term adjustment (with required fee), asserting that the correct number of days of Patent Term Adjustment is 829. Patentees maintain that the Office incorrectly calculated Office delay pursuant to 37 CFR 1.702(b). Patentees contend 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, Patentees argue that (after the filing of the request for continued examination) the Office mailed a Notice of

Allowance on June 28, 2011, thereby closing examination of the application on that date. Thus, Patentees argue no continued examination took place during the 50 day period from June 28, 2011 (the mailing date of the Notice of Allowance) until August 16, 2011 (the date the patent was issued). As such, Patentees maintain that the "B delay" should include the 50 days and be increased from 260 to 310 days.

In addition, patentees dispute two reductions pursuant to 37 CFR 1.704(b) for replies filed on July 24, 2009 and July 16, 2010, respectively.

Patentees conclude that the correct patent term adjustment is 829 days (the sum of 669 days of "A delay" and 310 days of "B delay" minus 8 overlapping days minus 142 days of Applicant delay).

RELEVANT STATUTE AND REGULATIONS WITH RESPECT TO B DELAY ARGUMENT

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

Patentees' 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 260 days based on the application having been filed under 35 U.S.C. 111(a) on April 12, 2006 and the patent not having issued as of the day after the three year date, April 13, 2009, and a request for continued examination under 132(b) having been filed on December 29, 2009. In other words, the 50 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

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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

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. Patentees do not dispute that time consumed by continued examination of an application under 35 U.S.C. 132(b) is properly excluded and that the calculation of the excluded period begins on the date of filing of the request for continued examination. At issue is what further processing or examination beyond the date of filing of the request for continued examination is 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.

Patentees' argument that the period of time after the issuance of a notice of allowance on a request for continued examination is not "any time consumed by continued examination requested by

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(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.

the applicant under section 132(b)" within the meaning of 35 U.S.C. 154(b)(1)(B)(i) is not availing. This limitation is not supported by the statutory language. Garcia v. United States, 469 U.S. 70, 75 (1984) ("only the most extraordinary showing of contrary intentions from [legislative history] would justify a limitation on the 'plain meaning' of the statutory language"). BP Am. Prod. Co. v. Burton, 549 U.S. 84, 91 (2006) ("Unless otherwise defined, statutory terms are generally interpreted in accordance with their ordinary meaning"). The statute provides for a guarantee of no more than 3-year application pendency, by providing for an adjustment in the patent term:

First, "Subject to the limitations of paragraph (2)," means that the limitations of paragraph 2 apply to this paragraph's adjustment of patent term. That is, the day-to-day extension of patent term for pendency beyond the 3 year period is restricted as follows: 1) "B delay" cannot accrue for days of "A delay" that overlap, 2) the patent term cannot be extended beyond disclaimed term, and 3) the period of adjustment, including accrued "B delay," will be reduced for applicant delay.

Second, "if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States," meaning that the condition must first occur that the issuance of an original patent (35 U.S.C. 153), not merely the issuance of a notice of allowance, is delayed due to the Office's failure to issue a patent (sign and record a patent grant in the name of the United States), not merely mail a notice of allowance, within 3 years after the actual filing date of the application in the United States. This provision gives the Office a three-year period to issue a patent (sign and record a patent grant in the name of the United States) after the application filing date before an adjustment will accrue for "B delay."

Third, "not including- (i) any time consumed by continued examination of the application requested by the applicant under section 132(b); (ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or (iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), meaning that the three-year period does not include "any time consumed by" or "any delay in processing," as specified in clauses (i)-

(iii). This language correlates to 35 U.S.C. 154(b)(1)(A) which likewise provides the basis for determining the period given the Office to take the specified actions before an adjustment will accrue for "A delay" (e.g., extended for 1 day after the day after the period specified in clauses (i)-(iv)).

Furthermore, these clauses are interpreted using their ordinary meanings. Nonetheless, the context of the legislation should be considered. As stated in Wyeth v. Dudas, 580 F.Supp.2d 138 (D.D.C., September 30, 2008), because the clock for calculating the 20-year patent term begins to run on the filing date, and not on the day the patent is actually granted, some of the effective term of a patent is consumed by the time it takes to prosecute the application. To mitigate this effect, the statute, *inter alia*, grants adjustments of patent term whenever the patent prosecution takes more than three years, regardless of the reason. The time consumed by prosecution of the application includes every day the application is pending before the Office from the actual filing date of the application in the United States until the date of issuance of the patent. The time it takes to prosecute the application ends not with the mailing of the notice of allowance, but with the issuance of the patent.

Thus, not including "any time consumed by" means not including any days used to prosecute the application as specified in clauses (i)-(ii)[2]. Clause (i) specifies "any time consumed by continued examination of the application requested by the applicant under section 132(b)." Clause (ii) specifies "any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court." "Time" in the context of this legislation throughout refers to days. "Consumed by" means used by or used in the course of. *Websters Collegiate Dictionary*, (11th ed.). The "any" signifies that the days consumed by are "any" of the days in the pendency of the application, and not just days that occur after the application

[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.

has been pending for 3 years. As such, "any time consumed by" refers to any days used in the course of 1) continued examination of the application under section 132(b)(the filing of a request for continued examination), 2) interference proceedings, 3) secrecy orders, and 4) appellate review. Thus, that 3-year period given to the Office to issue a patent before an adjustment will accrue for "B delay" does not include any days used in the course of or any time consumed by clauses (i)-(ii), including any time consumed by the filing of a request for continued examination.

Fourth, "the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued" meaning that the consequence of this failure is that after "the end of that 3-year period" an additional 1 day of patent term will accrue for each day that the application is pending until the day the patent is issued.

The "time consumed by" or used in the course of the continued examination of the application requested by the applicant under section 132(b) does not end until issuance of the patent. 35 U.S.C. 132(b) was enacted under the same title, the "American Inventors Protection Act of 1999," as 35 U.S.C. 154(b). Section 4403 of the AIPA amended 35 U.S.C. § 132 to provide, at the request of the applicant, for continued examination of an application for a fee (request for continued examination or RCE practice), without requiring the applicant to file a continuing application under 37 CFR 1.53(b) or a continued prosecution application (CPA) under 37 CFR 1.53(d). Thus, clause (i) is different from clause (ii) in that clause (i) refers to an examination process whereas clause (ii) refers to time consumed by proceedings (interferences, secrecy orders and appeals) in an application.

By nature, the time used in the course of the examination process continues to issuance of the patent. The examination process involves examining the application to ascertain whether it appears that the applicant is entitled to a patent under the law. See 35 U.S.C. 131 ("[t]he Director shall cause an examination to be made of the application and the alleged new invention; and if on such examination it appears that the applicant is entitled to a patent under the law, the Director shall issue a patent therefor"). If on examination it appears that the applicant is entitled to a patent, the USPTO issues a notice of allowance. See 35 U.S.C. 151 ("[i]f it appears that applicant is entitled to a patent under the law, a written notice of allowance of the application shall be given or mailed

to the applicant"). If on examination it appears that the applicant is not entitled to a patent, the USPTO issues a notice (an Office action) stating the applicable rejection, objection, or other requirement, with the reasons therefor. See 35 U.S.C. 132 ("[w]henever, on examination, any claim for a patent is rejected, or any objection or requirement made, the Director shall notify the applicant thereof, stating the reasons for such rejection, or objection or requirement, together with such information and references as may be useful in judging of the propriety of continuing the prosecution of his application"). Neither the issuance of a notice of allowance nor the insurance of an Office action terminates the examination process. If after the issuance of an Office action under 35 U.S.C. 132 it subsequently appears that the applicant is entitled to a patent (e.g., in response to an argument or amendment by the applicant), the USPTO will issue a notice of allowance. Conversely, if after the issuance of a notice of allowance under 35 U.S.C. 151 it subsequently appears that the applicant is not entitled to a patent (e.g., in response to information provided by the applicant or uncovered by the USPTO), the USPTO will withdraw the application from issuance and issue an Office action under 35 U.S.C. 132 stating the applicable rejection, objection, or other requirement, with the reasons therefor.

As held in Blacklight Power, the USPTO's responsibility to issue a patent containing only patentable claims does not end with the issuance of a notice of allowance under 35 U.S.C. 151. See BlackLight Power, Inc. v. Rogan, 295 F.3d 1269, 1273 (Fed. Cir. 2002). Rather, if there is any substantial, reasonable ground within the knowledge or cognizance of the Director as to why an application should not issue, it is the USPTO's duty to refuse to issue the patent even if a notice of allowance has previously been issued for the application. See In re Drawbaugh, 9 App. D.C. 219, 240 (D.C. Cir 1896).

Moreover, the applicant continues to be engaged in the examination process after the mailing of the notice of allowance. 37 CFR 1.56 makes clear that the applicant has a duty to disclose information material to patentability as long as the application is pending before the USPTO (i.e., until a patent is granted or the application is abandoned). See 37 CFR 1.56(a) ("[t]he duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned"). 37 CFR 1.97 and 1.98 provide for the consideration of information submitted by the applicant after a notice of allowance has been mailed. See 37 CFR 1.97(d). In addition, 37 CFR 1.312 provides

for the amendment of an application after a notice of allowance has been mailed. In fact, the request for examination procedures[3] permit the filing of a request for continued examination under 37 CFR 1.114 even after the issuance of a notice of allowance under 35 U.S.C. 151. See 37 CFR 1.114(a)(1).

As the examination process does not terminate with the mailing of the notice of allowance, the time consumed by continued examination requested by the applicant under section 132(b) does not terminate with the mailing of the notice of allowance. All the time the application is pending from the date of filing of the request for continued examination to the mailing of the notice of allowance through issuance of the patent is a consequence of the filing of the request for continued examination. Further action by the Office is pursuant to that request. Applicant has gotten further prosecution of the application without having to file a continuing application under 37 CFR 1.53(b).

All of the continued examination pursuant to the filing of the request by the applicant is properly excluded from the delay attributed to the Office. 35 U.S.C. 154(b)(1)(B)'s guarantee of a total application pendency of no more than three years provides for adjustment of the patent term for delay due to the Office's failure to issue the patent within three years, but does not include "any time consumed by continued examination requested by the applicant under 35 U.S.C. 132(b)." It is not necessary to mitigate the effect on the 20-year term to the extent that applicant has requested that the Office continue to examine the application via a request for continued examination, in lieu of, the filing of a continuing application under 37 CFR 1.53(b).

In this instance, a request for continued examination was filed on December 29, 2009, and the patent issued by virtue of that (and a second) request on August 16, 2011. Pursuant to 35 U.S.C. 154(b)(1)(B)(i), the period beginning on June 28, 2011 and ending on August 16, 2011 is not included in calculating Office delay.

Patentees argue that the Office miscalculated the period of delay pursuant to 37 CFR 1.704(b) associated with the filing of two replies on July 24, 2009 and July 15, 2010, respectively.

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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.

37 CFR 1.705(d), provides that:

> If there is a revision to the patent term adjustment indicated in the notice of allowance, the patent will indicate the revised patent term adjustment. If the patent indicates or should have indicated a revised patent term adjustment, any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued and must comply with the requirements of paragraphs(b)(1) and (b)(2) of this section. Any request for reconsideration under this section that raises issues that were raised, or could have been raised, in an application for patent term adjustment under paragraph (b) of this section shall be dismissed as untimely as to those issues.

A patentee is not permitted to raise an issue that could have been raised in an application for patent term adjustment under 37 CFR 1.705(b) in any post patent grant petition. If applicants did not agree with the length of the reductions under 37 CFR 1.704(b) in connection with the July 24, 2009 and July 15, 2010 replies, the appropriate time to contest them would have been after the Notice of Allowance was mailed and prior to payment of the issue fee.

CONCLUSION

In view thereof, it is concluded that the patent term adjustment of 774 days indicated on the patent is correct. The patent term is calculated as follows: 669 days A delay + 260 days B delay - 8 days overlap -147 days Applicant delay.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/404,272	04/14/2006	Paola Capodieci	24817-529 CIP	2567

7590 09/22/2011
MINTZ LEVIN COHN FERRIS GLOVSKY & POPEO
ONE FINANCIAL CENTER
BOSTON, MA 02111

EXAMINER
SISSON, BRADLEY L

ART UNIT	PAPER NUMBER
1634	

MAIL DATE	DELIVERY MODE
09/22/2011	PAPER

ACKNOWLEDGEMENT OF REQUEST

Notice of Allowance/Allowability Mailed

The request to print a color drawing reference as the first paragraph in the portion of the specification containing a brief description of the drawings as required by 37 CFR 1.84 and MPEP § 608.02 has been received by the United States Patent and Trademark Office and will be entered into the specification.

571-272-4200 or 1-888-786-0101
Application Assistance Unit
Office of Data Management

FORM PTOM327-5 (Rev. 02/08)

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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September 21, 2011

MINTZ LEVIN COHN FERRIS GLOVSKY & POPEO
ONE FINANCIAL CENTER
BOSTON MA 02111

Re Application of
CAPODIECI, PAOLA, et al.
Application: **11/404272**
Filed: **04/14/2006**
Attorney Docket No: **24817-529 CIP**

: **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) April 14, 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

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FEB 15 2011

OFFICE OF PETITIONS

LIFE TECHNOLOGIES CORPORATION
C/O INTELLEVATE
P.O. BOX 52050
MINNEAPOLIS MN 55402

In re Application of	:	
Adam S. Henry et al.	:	
Application No. 11/404,364	:	DECISION ON PETITION
Filed: April 14, 2006	:	
Attorney Docket No. **IVGN 494**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 31, 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 December 29, 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 January 30, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an election, (2) the petition fee of $1620, and (3) a proper statement of unintentional delay. Accordingly, the reply to the restriction requirement of December 29, 2009, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at (571) 272-2783.

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 extension of time fee submitted with the petition on August 31, 2010 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

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.

This application is being referred to Technology Center AU 1795 for appropriate action on the concurrently filed amendment.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

cc: **JONATHAN P. AMAIS, PH.D.**
5791 VAN ALLEN WAY
CARLSBAD CA 92008

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 7/21/10 Paper No.: ____

TO SPE OF : ART UNIT 3714

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/401402 Patent No.: 7784233 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Virginia Tolbert
Certificates of Correction Branch
571-272-0460

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- [x] **Approved** — All changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: All changes are ok to enter

RONALD LANEAU
PRIMARY EXAMINER

Ronald Laneau 04/01/11

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/404,436	04/14/2006	B. Logan Buck	035051/308683	1266

826 7590 11/21/2011
ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

EXAMINER
ROBINSON, HOPE A

ART UNIT	PAPER NUMBER
1652	

MAIL DATE	DELIVERY MODE
11/21/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

United States Patent and Trademark Office

Commissioner for Patents
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NOV 2 1 2011

B. Logan Buck
ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE NC 28280-4000

In re Application of	:
Buck et al	:Decision on Petition
Serial No.: 11/404,436	:
Filed : 14 April 2006	:
Attorney Docket No.: 035051/308683	:

This letter is in response to the Petition under 37 C.F.R. 1.144 filed on 28 April 2011 requesting reconsideration of the restriction requirement mailed 8 January 2009.

BACKGROUND

This application was filed as a national application under 35 U.S.C. 111(a) and as such is entitled to consideration under restriction practice of MPEP Chapter 800.

On 8 January 2009, the examiner set forth a restriction requirement which divided claims 1-45 into six groups and then required an election of a single polynucleotide sequence for examination on the merits.

On 6 March 2009, applicants elected Group IV, claims 20-29, and polynucleotide sequence SEQ ID NO:15, which encodes the corresponding amino acid sequence of SEQ ID NO: 16. Both elections were made with traverse.

On 8 June 2010, the examiner considered the election, stated that it was being treated as an election without traverse for not distinctly and specifically pointing out errors in the requirement. Claims 1-19 and 30-45 were withdrawn from consideration under 37 CFR 1.42(b). Claims 20-29 were examined on the merits. Claims 20-29 were objected to for containing non-elected subject matter.

On 28 October 2010, a final Office action was mailed, rejecting all claims which are under examination. Claims were also objected to for reciting non-elected subject matter.

On 26 September 2011, applicants filed a response to the Office action along with a request for continued examination and this petition.

DISCUSSION

The file history of the instant application has been considered carefully.

Independent claim 20 is directed to a method of inducing or enhancing autoinducer-2 production in a lactic acid bacterium comprising introducing into said bacterium at least two heterologous nucleic acid molecules. The at least two nucleic acid molecules were selected from the group consisting of SEQ ID Nos 1, 3, 15, 21 and 13, which encode polypeptides of SEQ ID NOs 2, 4, 16, 22 and 14, respectively.

At the onset, it is noted the examiner has provided no adequate reasons as to why an election of species is required. This is counter to the 27 March 2007 OG Notice on the examination of polynucleotide sequences, which stated that:

> For National applications filed under 35 U.S.C. 111(a), as for other type of invention, claims to polynucleotide molecules will be considered for restriction and rejoinder in accordance with MPEP Chapter 800

MPEP 803 requires that the examiner provide reasons why restriction would be proper. In making this requirement to elect a single sequence, no specific reasons were provided.

> 2. Groups I-VI encompass several patentably distinct polynucleotide sequences. The election of an invention from Groups I-VI will require a further election of a single species for examination on the merits.

Upon election, Applicants had traversed the requirement on the grounds that the requirement to elect one nucleic acid molecule is counter to the claim language "at least two heterologous nucleic acid molecules." This phrase is found on lines 2 and 3 of independent claim 20. However, this traversal was not acknowledged nor addressed on the merits in the first Office action. The election was considered as if it had been made without traverse.

The examiner has limited examination to a single nucleotide sequence (SEQ ID NO 15) which encodes a single polypeptide sequences (SEQ ID NO: 16). Limiting the scope of the claim to single sequence is counter to MPEP 803.02, which states: "since the decisions in In re Weber, 580 F.2d 455, 198 USPQ 328 (CCPA 1978) and In re Haas, 580 F.2d 461, 198 USPQ 334 (CCPA 1978), it is improper for the Office to refuse to examine that which applicants regard as their invention." Moreover, it is improper for the examiner to limit electable subject matter. In essence, by refusing to allow applicants to have elected a combination of two or more sequences, the Office has pre-elected a single sequence for applicants. This is counter to MPEP 818.03 which states

> "Applicant must make his or her own election; the examiner will not make the election for the applicant. 37 CFR 1.142, 37 CFR 1.143."

On 9 February 2011, the Office issued A Federal Register Notice entitled "Supplemental Examination Guidelines for Determining Compliance with 35 U.S.C. 112 and for treatment of Related Issues in Patent Applications." Page 7166 sets forth guidelines for the treatment of Markush-type claims:

> "Under principles of compact prosecution, the examiner should also require the applicant to elect a species or group of indistinct species for search and examination (*i.e.*, an election of species).52 If the examiner does not find the species or group of indistinct species in the prior art, then the examiner should extend the search to those additional species that fall within the scope of a permissible Markush claim. In other words, the examiner should extend the search to the species that share a single structural similarity and a common use. The improper Markush claim should be examined for patentability over the prior art with respect to the elected species or group of indistinct species, as well as the species that share a single structural similarity and a common use with the elected species or group of indistinct species (*i.e.*, the species that would fall within the scope of a proper Markush claim)."

In view of these new guidelines, the restriction requirement to a single sequence is unwarranted and is hereby replaced with a provisional election of species requirement. In view of the claims language, applicants will be required to elect at least one additional polynucleotide sequences for examination on the merits.

Finally, it is also noted that the examiner has objected to claims for reciting non-elected subject matter. This is counter to MPEP 803.02, which permits applicants to retain non-elected subject matter in the alternative of a Markush claim.

DECISION

The petition filed under 37 CFR 1.144 on 28 April 2011 is **GRANTED**.

The objection to the claims for reciting non-elected subject matter is withdrawn.

The intraclaim restriction requirement to elect a single nucleotide sequence set forth on 8 January 2009 has been withdrawn and replaced with a requirement to elect at least two sequences for examination.

Applicants are required to elect at least one additional polynucleotide sequence for examination in response to this petition decision. A shortened statutory period for reply is set to expire one (1) month or thirty days whichever is longer from the mailing date of this communication. Extensions of time may be available under the provisions of 37 CFR 1.136(a).

Upon election, the application will be forwarded to the examiner to consider the papers filed 28 April 2011 in a manner consistent with this petition decision. Markush claims will be examined according to the guidance in MPEP 803.02 and the FR Notice.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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In re Patent No. 7267793
Issue Date: September 11,2007
Application No. 11404459
Filed: April 14,2006
Attorney Docket No. 1-27280

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed October 17,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 17,2011 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7,267,793	2007-09-11	11/404,459	2006-04-14	1-27280

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	/Catherine B. Martineau/	Date (YYYY-MM-DD)	2011-10-17
Name	Catherine B. Martineau	Registration Number	31854

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

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www.uspto.gov

TODD J. TIBERI, ESQ.
TIBERI LAW OFFICE
No. 302
1519 6TH ST.
SANTA MONICA CA 90401

MAILED

SEP 24 2010

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Tedmund P. Tiberi :
Application No. 11/404,481 :
Filed: April 13, 2006 :
Attorney Docket No. **0002-001**

This is a decision on the petition under 37 CFR 1.137(b), filed August 25, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a timely and proper response to the non-final Office action mailed July 7, 2009, which set a shortened statutory period for reply of three months from its mailing date. Extensions of the time for response were available pursuant to 37 CFR 1.136. The application became abandoned on October 8, 2009. A Notice of Abandonment was mailed February 18, 2010.

The amendment filed August 25, 2010, is noted.

The application is being forwarded to Technology Center 2800, GAU 2857 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.

MINTZ, LEVIN, COHN, FERRIS,
GLOVSKY AND POPEO, P.C
ONE FINANCIAL CENTER
BOSTON MA 02111

MAILED

APR 13 2011

OFFICE OF PETITIONS

In re Patent No. 7,870,497	:	DECISION ON REQUEST
Greer et al.	:	FOR RECONSIDERATION OF
Issue Date: January 11, 2011	:	PATENT TERM ADJUSTMENT
Application No. 11/404,509	:	and
Filed: April 13, 2006	:	NOTICE OF INTENT TO ISSUE
Atty Docket No. 35004-501	:	CERTIFICATE OF CORRECTION

This is a decision on the REQUEST FOR RECONSIDERATION OF PATENT TERM INDICATED ON FACE OF PATENT UNDER 37 C.F.R. §1.705(d), filed March 11, 2011. Patentee requests that the patent term adjustment on the issued patent be corrected from eight hundred sixty-nine (869) days to nine hundred eleven (911) days.

The request for reconsideration of the patent term adjustment indicated in the patent is **GRANTED**.

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of **nine hundred eleven (911)** days.

On January 11, 2011, the application matured into U.S. Patent No. 7,870,497, with a revised patent term adjustment of 869 days. On March 11, 2011, patentee timely submitted this request for reconsideration of patent term adjustment (with required fee), requesting that the Patent Term Adjustment be corrected to 911 days. Patentee disputes the reduction of 42 days associated with a miscellaneous incoming letter filed after the mailing of the notice of allowance.

A review of the application history reveals that the miscellaneous incoming letter filed December 1, 2010 was a comment on the reasons for allowance. Thus, the entry of a period of reduction pursuant to 37 CFR 1.704(c)(10)[1] is not warranted. As stated in MPEP 2732:

> 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).

In view thereof, the patent should have issued with a revised patent term adjustment of nine hundred eleven (911) days.

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 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 **NINE HUNDRED ELEVEN (911)** days.

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[1] 1.704(c)(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.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Attachment: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,870,497 B2

DATED : **January 11, 2011** **DRAFT**

INVENTOR(S) : Greer 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 869 days

Delete the phrase "by 869 days" and insert – by 911 days--

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FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

MAILED
AUG 3 1 2010
OFFICE OF PETITIONS

In re Application of	:	
David Wentzlaff et al	:	
Application No. 11/404,641	:	DECISION GRANTING PETITION
Filed: April 14, 2006	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 19731-013001	:	

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 2, 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 2186 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No.

MAILED

JUL 12 2011

OFFICE OF PETITIONS

INGRASSIA FISHER & LORENZ, P.C. (FS)
7010 E. COCHISE ROAD
SCOTTSDALE AZ 85253

In re Application of	:	
Green et al.	:	
Application No. 11/404,714	:	
Filed: April 13, 2006	:	DECISION ON PETITION
Attorney Docket No. SC15167ZP	:	UNDER 37 C.F.R. § 1.137(B)
(038.0267)	:	
Title: TRANSISTOR AND METHOD	:	
WITH DUAL LAYER PASSIVATION	:	

This is a decision on the petition filed June 14, 2011, pursuant to 37 C.F.R. § 1.137(b), to revive the above-identified application.

The petition pursuant to 37 C.F.R. § 1.137(b) is **GRANTED.**

The above-identified application became abandoned due to the January 27, 2011 decision of the Board for Patent Appeals and Interferences which upheld the Examiner's rejections. Accordingly, the above-identified application became abandoned on March 28, 2011, the expiration of the period for seeking judicial review of this decision.[1] A Notice of Abandonment was mailed on April 15, 2011.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in 37 C.F.R. § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The

1 See MPEP § 1216.

Commissioner may require additional information where there is a question whether the delay was unintentional, and;

(4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

With this petition, Petitioner filed the petition fee and the proper statement of unintentional delay. The concurrently submitted Request for Continued Examination (RCE) and amendment have been accepted as the required reply under 37 C.F.R. § 1.137(b)(1). As such, the first three requirements of Rule 1.137(b) have been met. The fourth requirement of Rule 1.137(b) is not applicable, as a terminal disclaimer is not required.[2]

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the submission under 37 C.F.R. § 1.114 - the amendment submitted on June 14, 2011 - can be processed in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the revival has been acknowledged by the Technology Center in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status.**

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[3] All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

---

2 See Rule 1.137(d).

3 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 09/01/10

TO SPE OF : ART UNIT 2611

SUBJECT : Request for Certificate of Correction for Appl. No.: 11404823 Patent No.: 7773666

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: _____

Shewang Liu
SPE

2611
Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

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.
11/404,824	04/17/2006	Daniel Egger	EGG.001D	2092

38598 7590 10/15/2010
ANDREWS KURTH LLP
1350 I STREET, N.W.
SUITE 1100
WASHINGTON, DC 20005

EXAMINER
CHANG, JEFFREY

ART UNIT	PAPER NUMBER
2159	

NOTIFICATION DATE	DELIVERY MODE
10/15/2010	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):

PTODC@andrewskurth.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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Aldo Noto
Andrews Kurth n LLP
1350 I Street, N.W.
Suite 1100
Washington, DC 20005

In re Application of: Daniel EGGER Appl. No.: 11/404,824 Filed: April 17, 2006 For: METHOD AND APPARATUS OF INDEXING, SEARCHING AND DISPLAYING DATA	DECISION ON PETITION UNDER 37 CFR 1.59

This is a decision on the petition under 37 CFR 1.59(b), filed on 08 October 2010, to expunge drawings entered on 18 February 2009.

The petition is **GRANTED**.

Petitioner requests that the drawings entered on 18 February 2009 be expunged from the record. Petitioner states that the drawings were not submitted by applicant and were placed into the instant application by mistake. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

A review of the drawings dated 18 February 2009 and the instant specification revolves that these drawings do not belong to this application. Therefore, the drawings have been expunged and closed from public view.

It is noted that the instant application has been published on 26 October 2006. Thus, the aforementioned drawings entered on 18 February 2009 have already been made available to the public and subject to copying by the public. According, the Office cannot guarantee that the drawings being closed as a result of this decision was not previously accessed by the public.

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

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ANDREWS KURTH LLP
1350 I STREET, N.W.
SUITE 1100
WASHINGTON DC 20005

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NOV 23 2010

OFFICE OF PETITIONS

In re Application of	:	
Daniel Egger et al.	:	
Application No. 11/404,824	:	NOTICE
Filed: April 17, 2006	:	
Attorney Docket No. **EGG.001D**	:	

This is a notice regarding your request filed October 8, 2010, for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

There is no indication that the petition is signed by a registered patent attorney or patent agent of record. However, in accordance with 37 CFR 1.34, the signature of Aldo Noto appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. If, Aldo Noto desires to be acknowledged as the attorney of record in this file, the appropriate power of attorney documents must be submitted.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-4584.

JoAnne Burke
Petitions Examiner
Office of Petitions

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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LIFE TECHNOLOGIES CORPORATION
C/O INTELLEVATE
P.O. BOX 52050
MINNEAPOLIS MN 55402

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JAN 03 2011
OFFICE OF PETITIONS

In re Application of	:	
Tom R. Jackson	:	
Application No. 11/404,985	:	DECISION ON PETITION
Filed: April 14, 2006	:	
Attorney Docket No. IVGN-503	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 14, 2010, to revive the above-identified application.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement, mailed January 26, 2010, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on February 27, 2010.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Election, (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.

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 extension of time fee submitted with the petition on December 14, 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 JoAnne Burke at (571)272-4584.

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.

/JoAnne Burke/
JoAnne Burke
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : September 20, 2011

TO SPE OF : ART UNIT 2625 SPE

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/405,042 Patent No.: RE42,569 E

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 dependency in claim 38 be changed from "30" to "25" as requested by applicant?
See COCIN dated 9-9-2011

Antonio Johnson

Certificates of Correction Branch

(571)272-0483 Fax – (571)270-9846

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

X Approved	**All** changes apply.
❑ **Approved in Part**	Specify below which changes **do not** apply.
❑ **Denied**	State the reasons for denial below.

Comments: Approved

_____ **SPE /Mark Zimmerman/** _____ **Art Unit 2625**

UNITED STATES 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: 10/12/10

Patent No. : 7790253 B2
Ser. No. : 11/405,105
Inventor(s) : **Chang**
Issued : 09/07/10
Title : **WEAR-RESISTIVE HOUSING FOR A PORTABLE ELECTRONIC DEVICE**
Docket No. : **92,000-002 (SS-1001 US)**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this 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
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By hand: Customer Service Window
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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

TUNG & ASSOCIATES
Suite 120
838 W. Long Lake Road
Bloomfield Hills MI 48302

LMN

UNITED STATES PATENT AND TRADEMARK OFFICE

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TUNG & ASSOCIATES
SUITE 120
838 W. LONG LAKE ROAD
BLOOMFIELD HILLS MI 48302

MAILED
DEC 23 2010
OFFICE OF PETITIONS

In re Patent No. 7,790,253	:	
Application No. 11/405,105	:	
Filed: April 17, 2006	:	ON PETITION
Issued: September 7, 2010	:	
Attorney Docket No. 92,000-002 (SS-1001 US)	:	

This is a decision on the petition, filed November 10, 2010, under 37 CFR 3.81(b) to correct the assignee's name on the Fee(s) Transmittal form PTOL-85(b) by way of Certificate of Correction.

The request is **DISMISSED**.

Petitioner states that the correct assignee's name is Chun-Ying Kuo and that an incorrect assignee's name was included on the Part B - Fee(s) Transmittal form at the time of payment of the issue fee.

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 Certificate of Correction submitted on September 27, 2010 is not in the proper format. Below is a variety of corrections and the suggested manner of setting out the format. Particular attention is directed to (E):

> (A) Identification of the exact point of error by reference to column and line number of the printed patent for changes in the specification or to claim number and line where a claim is involved.
>
> (B) Conservation of space on the form by typing single space, beginning two lines down from the printed message.
>
> (C) Starting the correction to each separate column as a sentence, and using semicolons to separate corrections within the same column, where possible.

(D) Leaving a two-inch space blank at bottom of the last sheet for the signature of the attesting officer.

(E) Using quotation marks to enclose the exact subject matter to be deleted or corrected; using double hyphens (-- --) to enclose subject matter to be added, except for formulas.

(F) Where a formula is involved, setting out only that portion thereof which is to be corrected or, if necessary, pasting a photocopy onto form PTO/SB/44.

As petitioner has failed to comply with the provisions of 37 CFR 3.81(b) in not providing a proper request for Certificate of Correction (and fee), the request cannot be granted at this time.

Further, petitioner has not provided the $130.00 processing fee required by 37 CFR 3.81(b).

Petitioner also requested that the correction be reflected on a new face page for the Ribbon Copy Patent. Since the desired correction of the assignee's name can be effected by way of a certificate of correction, it is unnecessary to reprint the front page of the Letters Patent.

However the USPTO will reprint the front page of the Letters Patent if the following conditions are met:

1. Submission of a petition under 37 CFR 1.182
2. Payment of a $400 petition fee
3. Payment of a $100 fee to place a certificate of correction in the USPTO archives

Petitioner is advised that the reprinted Letters Patent granted by this petition is the only one which will reflect the correction of the assignee's name on the front page. All other copies of the patent will reflect the correction of the assignee's name by the presence of a certificate of correction in Office records.

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

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
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Alexandria, VA 22313-1450
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Date Mailed : 05/20/11

Patent No. : 7790253 B2
Patent Issued : 09/07/10
Docket No. : **92,000-002 (SS-1001 US)**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322.

Respecting the alleged errors in the documents filed on 03/07/11; 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

TUNG & ASSOCIATES
Suite 120
838 W. Long Lake Road
Bloomfield Hills MI 48302

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TUNG & ASSOCIATES
SUITE 120
838 W. LONG LAKE ROAD
BLOOMFIELD HILLS MI 48302

MAILED
DEC 23 2010
OFFICE OF PETITIONS

In re Patent No. 7,790,253	:	
Application No. 11/405,105	:	
Filed: April 17, 2006	:	ON PETITION
Issued: September 7, 2010	:	
Attorney Docket No. 92,000-002 (SS-1001 US)	:	

This is a decision on the petition, filed November 10, 2010, under 37 CFR 3.81(b) to correct the assignee's name on the Fee(s) Transmittal form PTOL-85(b) by way of Certificate of Correction.

The request is **DISMISSED**.

Petitioner states that the correct assignee's name is Chun-Ying Kuo and that an incorrect assignee's name was included on the Part B - Fee(s) Transmittal form at the time of payment of the issue fee.

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 Certificate of Correction submitted on September 27, 2010 is not in the proper format. Below is a variety of corrections and the suggested manner of setting out the format. Particular attention is directed to (E):

> (A) Identification of the exact point of error by reference to column and line number of the printed patent for changes in the specification or to claim number and line where a claim is involved.
>
> (B) Conservation of space on the form by typing single space, beginning two lines down from the printed message.
>
> (C) Starting the correction to each separate column as a sentence, and using semicolons to separate corrections within the same column, where possible.

(D) Leaving a two-inch space blank at bottom of the last sheet for the signature of the attesting officer.

(E) Using quotation marks to enclose the exact subject matter to be deleted or corrected; using double hyphens (-- --) to enclose subject matter to be added, except for formulas.

(F) Where a formula is involved, setting out only that portion thereof which is to be corrected or, if necessary, pasting a photocopy onto form PTO/SB/44.

As petitioner has failed to comply with the provisions of 37 CFR 3.81(b) in not providing a proper request for Certificate of Correction (and fee), the request cannot be granted at this time.

Further, petitioner has not provided the $130.00 processing fee required by 37 CFR 3.81(b).

Petitioner also requested that the correction be reflected on a new face page for the Ribbon Copy Patent. Since the desired correction of the assignee's name can be effected by way of a certificate of correction, it is unnecessary to reprint the front page of the Letters Patent.

However the USPTO will reprint the front page of the Letters Patent if the following conditions are met:

1. Submission of a petition under 37 CFR 1.182
2. Payment of a $400 petition fee
3. Payment of a $100 fee to place a certificate of correction in the USPTO archives

Petitioner is advised that the reprinted Letters Patent granted by this petition is the only one which will reflect the correction of the assignee's name on the front page. All other copies of the patent will reflect the correction of the assignee's name by the presence of a certificate of correction in Office records.

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

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SCOTT A.WHITAKER, PH.D., J.D.
SR. INTELLECTUAL PROPERTY COUNSEL
BIONUMERIK PHARMACEUTICALS, INC., SUITE 1250
8122 DATAPOINT DRIVE
SAN ANTONIO TX 78229

MAILED

JAN 3 1 2011

OFFICE OF PETITIONS

In re Application of	:	
Zejun XIAO et al.	:	
Application No. 11/405,141	:	NOTICE UNDER 37 CFR. 1.28(c)
Patent No. 7,569,606	:	
Filed: April 17, 2006	:	
Attorney Docket No. X-0247 A		

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to Michelle R. Eason at (571) 272-4231.

Thurman K. Page
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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SCOTT A.WHITAKER, PH.D., J.D.
SR. INTELLECTUAL PROPERTY COUNSEL
BIONUMERIK PHARMACEUTICALS, INC., SITE 1250
8122 DATAPOINT DRIVE
SAN ANTONIO TX 78229

In re Patent No. 7,569,606	:	
Issue Date: August 4, 2009	:	
Application No. 11/405,141	:	DECISION ON REQUEST FOR REFUND
Filed: April 17, 2006	:	
Attorney Docket No. X-0247 A	:	

This is a decision on the Request For Refund filed December 1, 2011.

The request is **DISMISSED**.

The request for refund is dismissed because USPTO regulations require that papers filed in the application be signed by a registered attorney or agent, by the applicants (inventors) or by the assignee of the entire interest who has taken action in the application in accordance with 37 CFR 3.71. The request for refund is signed by Suzi Lozano. Note 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.

Further, it is noted that some of the papers filed November 10, 2011, reference Patent No. 7,238,823 instead of 7,569,606.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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Date : March 7, 2011

Patent No. :7885897
Ser. No. :11405166
Inventor(s) :James MALACKOWSKI et al.
Issued :Feb. 8, 2011
Title :INTELLECTUAL PROPERTY TRADING EXCHANGE AND A METHOD FOR
:TRADING INTELLECTUAL PROPERTY RIGHTS

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

Electronic Filing uspto.gov/ebc/index.html
(must be registered as an e-filer)
Support 1-866-217-9197 571-272-4100

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

For Mary Diggs
Decisions & Certificates
of Correction Branch
(703) 756-1580 or (703) 756-1541

Foley & Lardner LLP
321 N. Clark St. Suite 2800
Chicago, IL 60654—5313

/arg

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FOLEY & LARDNER LLP
321 NORTH CLARK STREET
SUITE 2800
CHICAGO IL 60654-5313

MAILED

JUL 11 2011

OFFICE OF PETITIONS

In re Patent No. 7,885,897 :
Issue Date: 8 February, 2011 :
Application No. 11/405,166 : ON PETITION
Filed: 17 April, 2006 :
Attorney Docket No. 090068-0101 :

This is a decision on the petition filed on 14 March, 2011, pursuant to 37 C.F.R. §1.183 and §3.81(b) to correct, *inter alia*, the name of the assignee on the front page of the above-identified patent by way of a certificate of correction under 37 C.F.R. §1.323.

NOTE:

Petitioners always are cautioned to submit proper fees with papers deposited to the Office.

While Petitioner failed to submit the petition fee, it is charged as authorized to Deposit Account No. 19-0741.

The request is **GRANTED**— upon the instant showing of the recordation of the assignment on 12 March, 2010, and the location of recordation as Reel/Frame 024071/0841.

Petitioner requests issuance of a certificate of correction the identification of the Assignee to "**IPXI TECHNOLOGIES LLC (Chicago, Illinois, USA)**" of the substance/form of that submitted therewith.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 C.F.R. §3.81(b) and directing issuance of the requested Certificate of Correction.

Patent No. 7,885,897
Application No. 11/405,166

Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[1]) regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

---

[1] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing.The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation,or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/405,216	04/17/2006	Christopher D. Cera	600754-11U4	1873

37583 7590 12/07/2011
NAVTEQ NORTH AMERICA, LLC
425 West RANDOLPH STREET
SUITE 1200, PATENT DEPT
CHICAGO, IL 60606

EXAMINER
HOLWERDA, STEPHEN

ART UNIT	PAPER NUMBER
3664	

MAIL DATE	DELIVERY MODE
12/07/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DEC 0 6 2011

AKIN GUMP STRAUSS HAUER & FELD LLP
One Commerce Square
2005 Market Street, Suite 2200
Philadelphia, PA 19103-7013

In re Application of: Christopher Cera et al. :
Application No. 11/405,216 :
Filed: April 17, 2006 :
Attorney Docket No.: 600754-11U4 :

PETITION TO ACCEPT COLOR DRAWINGS UNDER 37 C.F.R. 1.184 (a) (2)

For: DATA-DRIVEN TRAFFIC VIEWS WITH CONTINUOUS REAL-TIME RENDERING OF TRAFFIC FLOW MAP

This is in response to applicant's petition filed on April 17, 2006 to request the acceptance of color drawings under 37 C.F.R. 1.184 (a)(2).

The petition is **Denied** to the extent indicated below.

Petitioner's reasons for the need of color drawings in this application are as follows: An important feature of the present invention is the display of one or more color coded traffic map(s) and/or three-dimensional ("3D") displays representing traffic conditions on a road system and the features associated therewith, including vehicles in different color. Color is required to most clearly illustrate the 3D graphical map, including corresponding geographic images and objects, as well as the changing and animated images created by the 3D display and viewed by the consumer. No approved drafting symbols exist to graphically illustrate these features.

A review of the scanned images within USPTO IFW file and in Public PAIR shows that the details in the photographs/drawings are not reproducible in black and white. For example, scanned figures 1-11, 21, 22, and 36-38 from the respective color photographs resulted in poor quality with missing details. The submitted color drawings/photographs do not adhere to the requirement for color drawings under 37 CRF 1.184 (a)(2)

The requirement for color drawings under 37 CRF 1.184 (a) (2) requires:

On rare occasions, color drawings may be necessary as the only practical medium by which to disclose the subject matter sought to be patented in a utility or design patent application or the subject matter of a statutory invention registration. **The color drawings must be of sufficient quality such that all details in the drawings are reproducible in black and white**

in the printed patent. Color drawings are not permitted in international applications (see PCT Rule 11.13), or in an application, or copy thereof, submitted under the Office electronic filing system. The Office will accept color drawings in utility or design patent applications and statutory invention registrations only after granting a petition filed under this paragraph explaining why the color drawings are necessary.

For the reasons indicated above, Petitioner's request for color drawings on April 17, 2006 is hereby denied.

Any question regarding this decision should be directed to SPE Khoi Tran at (571) 272-6919.

Summary: ***Petition Denied***

Khoi H. Tran
Supervisory Patent Examiner Art Unit 3664
(571) 272-6919
KT – 12/06/2011

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.
11/405,228	04/17/2006	Christopher D. Cera	600754-11U3	1875

37583 7590 12/07/2011
NAVTEQ NORTH AMERICA, LLC
425 West RANDOLPH STREET
SUITE 1200, PATENT DEPT
CHICAGO, IL 60606

EXAMINER
HOLWERDA, STEPHEN

ART UNIT	PAPER NUMBER
3664	

MAIL DATE	DELIVERY MODE
12/07/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DEC 0 6 2011

AKIN GUMP STRAUSS HAUER & FELD LLP
One Commerce Square
2005 Market Street, Suite 2200
Philadelphia, PA 19103-7013

In re Application of: Christopher Cera et al. :
Application No. 11/405,228 :
Filed: April 17, 2006 :
Attorney Docket No.: 600754-11U3 :
For: DATA-DRIVEN TRAFFIC VIEWS WITH THE VIEW BASED ON USER-SELECTED START AND END GEOGRAPHIC LOCATIONS

PETITION TO ACCEPT COLOR DRAWINGS UNDER 37 C.F.R. 1.184 (a) (2)

This is in response to applicant's petition filed on April 17, 2006 to request the acceptance of color drawings submitted on April 17, 2006 under 37 C.F.R. 1.184 (a)(2).

The petition is **Denied** to the extent indicated below.

Petitioner's reasons for the need of color drawings in this application are as follows: An important feature of the present invention is the display of one or more color coded traffic map(s) and/or three-dimensional ("3D") displays representing traffic conditions on a road system and the features associated therewith, including vehicles in different color. Color is required to most clearly illustrate the 3D graphical map, including corresponding geographic images and objects, as well as the changing and animated images created by the 3D display and viewed by the consumer. No approved drafting symbols exist to graphically illustrate these features.

A review of the scanned images within USPTO IFW file and in Public PAIR shows that the details in the photographs/drawings are not reproducible in black and white. For example, scanned figures 1-11, 21, 22, and 36-38 from the respective color photographs resulted in poor quality with missing details. The submitted color drawings/photographs do not adhere to the requirement for color drawings under 37 CRF 1.184 (a)(2)

The requirement for color drawings under 37 CRF 1.184 (a) (2) requires:

On rare occasions, color drawings may be necessary as the only practical medium by which to disclose the subject matter sought to be patented in a utility or design patent application or the subject matter of a statutory invention registration. **The color drawings must be of sufficient quality such that all details in the drawings are reproducible in black and white**

in the printed patent. Color drawings are not permitted in international applications (see PCT Rule 11.13), or in an application, or copy thereof, submitted under the Office electronic filing system. The Office will accept color drawings in utility or design patent applications and statutory invention registrations only after granting a petition filed under this paragraph explaining why the color drawings are necessary.

For the reasons indicated above, Petitioner's request for color drawings on April 17, 2006 is hereby denied.

Any question regarding this decision should be directed to SPE Khoi Tran at (571) 272-6919.

Summary: ***Petition Denied***

Khoi H. Tran
Supervisory Patent Examiner Art Unit 3664
(571) 272-6919
KT – 12/06/2011

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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THORNE & HALAJIAN, LLP
111 WEST MAIN STREET
BAY SHORE NY 11706

MAILED

AUG 23 2010

OFFICE OF PETITIONS

In re Application of :
SHIBA et al. :
Application No. 11/405,240 :
Filed: 04/17/2006 :
Attorney Docket No. SY2268 :

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed March 24, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to pay the issue fee and publication fee as required by the Notice of Allowance and Fee(s) Due mailed on December 2, 2009, which set a three (3) month statutory period for reply. Accordingly, the application became abandoned on March 3, 2010. A Notice of Abandonment was mailed on March 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 payment of the issue fee and publication fee, (2) the petition fee, and (3) a proper statement of unintentional delay.

This matter is being forwarded to the Office of Data Management for processing into a patent.

Telephone inquiries specifically concerning this decision should be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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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CENTRAL COAST PATENT AGENCY, INC
3 HANGAR WAY SUITE D
WATSONVILLE, CA 95076

Mail Date: 08/03/2010

Applicant	: Liang Shen	: DECISION ON REQUEST FOR
Patent Number	: 7646855	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/405,275	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/17/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **229** 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

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NOV 17 2010

OFFICE OF PETITIONS

SIEMENS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
170 WOOD AVENUE SOUTH
ISELIN, NJ 08830

In re Application of	:	
Ali Khamene, et al.	:	
Application No. 11/405,304	:	DECISION ON PETITION
Filed: April 17, 2006	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No.: 2005P07706 US01	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed on October 5, 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 **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) and (iii) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition does not satisfy items (1) above.

In this regard, the reference to add the above-noted, prior-filed application on page one following the first sentence 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).

Before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition and either an Application Data Sheet or an amendment (complying with the provisions of 37 CFR 1.121 and 37 CFR 1.76(b)(5)) to correct the above matter is required.

Further correspondence with respect to this matter should be delivered through one of the following mediums:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

By Internet: EFS-Web[1]

Telephone inquiries concerning this decision should be directed to Sherry Brinkley at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] www.uspto.gov/ebc/efs_help.html (for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)

UNITED STATES PATENT AND TRADEMARK OFFICE

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SIEMENS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
170 WOOD AVENUE SOUTH
ISELIN, NJ 08830

MAILED
MAR 09 2011
OFFICE OF PETITIONS

In re Application of	:	
Ali Khamene, et al.	:	
Application No. 11/405,304	:	DECISION ON PETITION
Filed: April 17, 2006	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No.: 2005P07706 US01	:	

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed December 16, 2010, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed with the present petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

> **(1)** the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) 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.

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.

[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).

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.

This application is being forwarded to Technology Center Art Unit 3737 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed application.

Inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. All other inquiries concerning the status of the application should be directed to the Technology Center.

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
11/405,304	04/17/2006	3737	1580	2005P07706 US01	29	3

CONFIRMATION NO. 3973

CORRECTED FILING RECEIPT

28524
SIEMENS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
170 WOOD AVENUE SOUTH
ISELIN, NJ 08830

OC000000046142545

Date Mailed: 02/23/2011

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)

Ali Khamene, Princeton, NJ;
Martin W. Masters, Belle Mead, NJ;
Frank Sauer, Princeton, NJ;
Therese Velde, Bridgewater, NJ;

Power of Attorney: The patent practitioners associated with Customer Number 28524

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/676,466 04/29/2005
and is a CIP of 10/385,587 03/11/2003

Foreign Applications (You may be eligible to benefit from the **Patent Prosecution Highway** program at the USPTO. Please see http://www.uspto.gov for more information.)

If Required, Foreign Filing License Granted: 05/12/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/405,304**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

System and method for reconstruction of the human ear canal from optical coherence tomography scans

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).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where

the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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DAVID NEWMAN CHARTERED
P.O. Box 459
Indian Head MD 20640

MAILED

AUG 11 2011

OFFICE OF PETITIONS

In re Application of	:	
Schilling et al.	:	
Application No.: 11/405370	:	ON PETITION
Filing or 371(c) Date: 04/17/2006	:	
Attorney Docket Number:	:	
LINX15US	:	

This is a decision on the Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 C.F.R. § 1.137(b), filed July 22, 2011.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely reply to the non-final Office action, mailed March 5, 2009. The Office action set a three (3) period for reply. Extensions of time under 37 CFR 1.136(a) were available. No reply having been received, the application became abandoned on June 6, 2009. A Notice of Abandonment was mailed October 5, 2009.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that the petition includes (1) the reply in the form of an Amendment; (2) the petition fee; and (3) the required statement of unintentional delay. Accordingly, the reply is accepted as having been unintentionally delayed.

The power of attorney and change of correspondence address filed with the petition is only executed by one of two inventors. 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.

The MPEP 601.03 provides:

Where a correspondence address has been established on filing of the application or changed pursuant to 37 CFR 1.33(a)(1) (prior to the filing of an executed oath or declaration under 37 CFR 1.63 by any of the inventors), that correspondence address remains in effect upon filing of an executed oath or declaration under 37 CFR 1.63 and can only be subsequently changed pursuant to 37 CFR 1.33(a)(2). Under 37 CFR

1.33(a)(2), where an executed oath or declaration under 37 CFR 1.63 has been filed by any of the inventors, the correspondence address may be changed by (A) a patent practitioner of record, (B) an assignee as provided for under 37 CFR 3.71(b), or (C) all of the applicants (37 CFR 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 37 CFR 3.71. See 37 CFR1.33(a)(2). (Emphasis added).

This application is being referred to Technology Center Art Unit 2611 for processing of the response to the Office action filed with the petition in the normal course of business.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3232.

/DLW/

Derek L. Woods
Attorney
Office of Petitions

CC: ROBERT H. EPSTEIN
1901 RESEARCH BLVD.
SUITE 340
ROCKVILLE, MD 20850

CERTIFICATION AND REQUEST FOR RELIEF DUE TO EVENTS OF MARCH 11, 2011, IN JAPAN (Page 1 of 2)

Nonprovisional Application Number or Control Number (if applicable): 11/405,466	Patent Number (if applicable):
First Named Inventor: ONODERA, et al.	Title of Invention: ANALYSIS MODEL PRODUCING SYSTEM

APPLICANT/PATENTEE/REEXAMINATION PARTY HEREBY CERTIFIES AND REQUESTS THE FOLLOWING FOR THE ABOVE-IDENTIFIED APPLICATION/PATENT/REEXAMINATION PROCEEDING.

1. FOR PATENT APPLICATIONS AND REEXAMINATION PROCEEDINGS PENDING IN THE USPTO AS OF MARCH 11, 2011, IN WHICH A COMMUNICATION FROM THE USPTO IS SOUGHT TO BE REMAILED:

   a. One or more inventors, an assignee, or a correspondence address (for the application/proceeding) is in an area of Japan affected by the earthquake and/or tsunami of March 11, 2011.

   b. A reply or response to an Office action (final, non-final, or other), a notice of allowance, or other Office notice (hereinafter collectively referred to as “Office communication”) is outstanding on March 11, 2011.

   c. The statutory or non-statutory time period set for response has not yet expired.

   d. Withdrawal and reissuance of the Office communication is requested.

   e. It is acknowledged that if this request is not made within sufficient time so that withdrawal and reissuance of the Office communication occur prior to expiration of the statutory or non-statutory time period (as permitted to be extended under 37 CFR 1.136(a), or as extended under 37 CFR 1.550(c) or 1.956), this request may not be granted.

   f. The need for the reissuance of the Office communication was due to the effects of the earthquake and/or tsunami of March 11, 2011.

   g. This request is being sent via EFS-Web or by mail directed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

2. FOR PATENTEES WHO WERE UNABLE TO TIMELY PAY A PATENT MAINTENANCE FEE DURING THE SIX-MONTH GRACE PERIOD FOLLOWING THE WINDOW TO PAY THE MAINTENANCE FEE:

   a. The original window of time to pay the maintenance fee without the surcharge required by 37 CFR 1.20(h) expired on or after March 11, 2011.

   b. The delay in paying the fee was due to the effects of the earthquake and/or tsunami of March 11, 2011.

   c. The USPTO is requested to *sua sponte* waive the surcharge in 37 CFR 1.20(h) for paying a maintenance fee during the six-month grace period following the window to pay the maintenance fee.

   d. This request and payment of the maintenance fee during the six-month grace period following the window to pay the maintenance fee is being mailed to: Director of the United States Patent and Trademark Office, Attn: Maintenance Fee, 2051 Jamieson Avenue, Suite 300, Alexandria, VA 22314; or being transmitted via facsimile to: 571-273-6500.

CERTIFICATION AND REQUEST FOR RELIEF DUE TO EVENTS OF MARCH 11, 2011, IN JAPAN (Page 2 of 2)

3. FOR PATENTEES WHO NEED TO FILE A PETITION TO ACCEPT A DELAYED MAINTENANCE FEE PAYMENT UNDER 37 CFR 1.378(c):
   a. The maintenance fee payment was required to have been paid after March 10, 2011.
   b. A petition under 37 CFR 1.378(c) (using USPTO form PTO/SB/66 – Petition to Accept Unintentionally Delayed Payment of Maintenance Fee in an Expired Patent (37 CFR 1.378(c))) is being promptly filed accompanied by the applicable maintenance fee payment (but not the surcharge under 37 CFR 1.20(i)).
   c. The delay in payment of the maintenance fee was due to the effects of the earthquake and/or tsunami of March 11, 2011.
   d. The USPTO is requested to *sua sponte* waive the surcharge in 37 CFR 1.20(i) for accepting a delayed maintenance fee payment.
   e. It is acknowledged that the petition to accept a delayed maintenance fee payment under 37 CFR 1.378(c) must be filed by March 11, 2012, in order to be entitled to a waiver of the surcharge under 37 CFR 1.20(i).
   f. It is acknowledged that the petition to accept a delayed maintenance fee payment under 37 CFR 1.378(c) must be filed within twenty-four months from the expiration date of the patent. *See* 35 U.S.C 41(c).
   g. This request and the petition to accept a delayed maintenance fee payment under 37 CFR 1.378(c) is being submitted via EFS-Web or by mail directed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.
4. FOR NONPROVISIONAL PATENT APPLICATIONS FILED WITHOUT AN EXECUTED OATH OR DECLARATION OR PAYMENT OF THE BASIC FILING FEE, SEARCH FEE, AND/OR EXAMINATION FEE:
   a. The nonprovisional patent application was filed on or after March 11, 2011, and prior to April 12, 2011.
   b. The late filing of the oath or declaration or the basic filing fee, search fee, or examination fee was due to the effects of the earthquake and/or tsunami of March 11, 2011.
   c. The USPTO is requested to *sua sponte* waive the surcharge set forth in 37 CFR 1.16(f) for the late filing of the oath or declaration or basic filing fee, search fee, and/or examination fee.
   d. This request, together with the executed oath or declaration or the basic filing fee, search fee, or examination fee, as well as the reply to the Notice to File Missing Parts, is being submitted via EFS-Web or by mail directed to Mail Stop Missing Parts, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Signature /Paul J. Skwierawski	Date May 25, 2011
Name (Print/Typed) Paul J. Skwierawski	Practitioner Registration Number 32,173

***Note**: Signatures of all the inventors, § 1.41(b) applicants, or assignees of record of the entire interest or their representative(s), or reexamination requesters at the appeal stage are required in accordance with 37 CFR 1.33 and 11.18. Please see 37 CFR 1.4(d) for the form of the signature. If necessary, submit multiple forms for more than one signature, see below*.*

☐ *Total of _____ forms are submitted.

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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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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ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON VA 22209-3873

MAILED
MAY 3 1 2011
OFFICE OF PETITIONS

In re Application of	:	
Onodera et al.	:	
Application No. 11/405,466	:	DECISION ON PETITION
Filed: April 18, 2006	:	
Attorney Docket No. 520.46134X00	:	

This is a decision on the request filed May 25, 2011, seeking relief under the provisions of "Relief Available to Patent and Trademark Applicants, Patentees and Trademark Owners Affected by the Catastrophic Events of March 11, 2011 in Japan," 1365 Off. Gaz. Pat. Office 170 (April 19, 2011).

The request for relief is **GRANTED**.

In the above-identified application, an Office action was mailed on January 13, 2011. The instant petition was filed prior to the expiration of the period for reply and the certifications for granting of relief are considered to be met by the submission of the request.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

This application is being referred to the Technology Center, Art Unit 2628 for re-mailing the Office action of January 13, 2011. The period for reply will run from the mailing date of the Office action.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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.
11/405,471	04/18/2006	Tsutomu Fujimura	289888US0	3604

22850 7590 09/26/2011
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER
LONG, SCOTT

ART UNIT	PAPER NUMBER
1633	

NOTIFICATION DATE	DELIVERY MODE
09/26/2011	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentdocket@oblon.com
oblonpat@oblon.com
jgardner@oblon.com

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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September 22, 2011

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA VA 22314

In re Application of	:	
Fujimura, Tsutomu et. el	:	**DECISION ON PETITION**
Application No. 11/405,471	:	
Filed: 04/18/2006	:	
Attorney Docket No. 289888US0	:	

This is a decision on the Petition to Accept Color Drawings under 37 C.F.R 1.84 (a) (2), received in the United States Patent and Trademark Office (USPTO)April 18, 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
4. *"The file of this patent contains at least one drawing executed in color. Copies of this patent with color drawing(s) will be provided by the Patent and Trademark Office upon request and payment of the necessary fee."*

The petition did not meet the following requirement(s). 1 ☑ 2 ☐ 3 ☑

A renewed petition filed under 37 C.F.R. 1.84 (a) (2) must be filed within TWO (2) MONTHS of this decision. If a renewed petition is not filed within the TWO (2) Months of this decision the drawings will be printed in black and white.

Telephone inquires relating to this decision may be directed to the undersigned in the Office of Data Management at 571-272-4200.

/Diane Terry/
Quality Control Specialist
Office of Data Management
Publications Branch

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MAILED
AUG 02 2010
OFFICE OF PETITIONS

DICKSTEIN SHAPIRO LLP
1825 EYE STREET, NW
WASHINGTON DC 20006

In re Application of	:	
Paul J. Rudeck et al.	:	
Application No. 11/405,629	:	DECISION ON PETITION
Filed: April 18, 2006	:	
Attorney Docket No. M4065.1247/P1247	:	

This is a decision on the renewed petition under 37 CFR 1.59(b), filed July 8, 2010, to expunge information from the above identified application.

The petition is **Dismissed.**

Petitioner requests that documents filed under EFS ID 6803949, filed January 13, 2010 be expunged from the record. Petitioner states that the information submitted was erroneously filed in the instant application. The petition fee set forth in 37 CFR 1.17(g) has been paid.

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).

Telephone inquiries concerning this communication should be directed to Carl Friedman at (571) 272-6842.

Carl Friedman
Petitions Examiner
Office of Petitions

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SMART & BIGGAR
P.O.BOX 2999, STATION D
900-55 METCALFE STREET
OTTAWA ON K1P 5Y6 CA CANADA

MAILED

JAN 14 2011

OFFICE OF PETITIONS

In re Application of
Richard Qing, et al.
Application No.: 11/405,639
Filed: April 18, 2006
Attorney Docket No.: 51791-79

ON PETITION

This is a decision on the petition, filed January 12, 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 22, 2010, cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2113 for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement (IDS).

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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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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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.
11/405,653	04/17/2006	Christopher D. Cera	600754-11U1	1860

37583 7590 12/07/2011
NAVTEQ NORTH AMERICA, LLC
425 West RANDOLPH STREET
SUITE 1200, PATENT DEPT
CHICAGO, IL 60606

EXAMINER
PECHE, JORGE O

ART UNIT	PAPER NUMBER
3664	

MAIL DATE	DELIVERY MODE
12/07/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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DEC 0 6 2011

AKIN GUMP STRAUSS HAUER & FELD LLP
One Commerce Square
2005 Market Street, Suite 2200
Philadelphia, PA 19103-7013

In re Application of: Christopher Cera et al. :
Application No. 11/405,653 :
Filed: April 17, 2006 :
Attorney Docket No.: 600754-11U1 :
For: DATA-DRIVEN 3D COMBINED TRAFFIC/WEATHER VIEWS

PETITION TO ACCEPT COLOR DRAWINGS UNDER 37 C.F.R. 1.184 (a) (2)

This is in response to applicant's petition filed on April 17, 2006 to request the acceptance of color drawings submitted on April 17, 2006 under 37 C.F.R. 1.184 (a)(2).

The petition is **Denied** to the extent indicated below.

Petitioner's reasons for the need of color drawings in this application are as follows: An important feature of the present invention is the display of one or more color coded traffic map(s) and/or three-dimensional ("3D") displays representing traffic conditions on a road system and the features associated therewith, including vehicles in different color. Color is required to most clearly illustrate the 3D graphical map, including corresponding geographic images and objects, as well as the changing and animated images created by the 3D display and viewed by the consumer. No approved drafting symbols exist to graphically illustrate these features.

A review of the scanned images within USPTO IFW file and in Public PAIR shows that the details in the photographs/drawings are not reproducible in black and white. For example, scanned figures 1-11, 21, 22, and 36-38 from the respective color photographs resulted in poor quality with missing details. The submitted color drawings/photographs do not adhere to the requirement for color drawings under 37 CRF 1.184 (a)(2)

The requirement for color drawings under 37 CRF 1.184 (a)(2) requires:

On rare occasions, color drawings may be necessary as the only practical medium by which to disclose the subject matter sought to be patented in a utility or design patent application or the subject matter of a statutory invention registration. **The color drawings must be of sufficient quality such that all details in the drawings are reproducible in black and white** in the printed patent. Color drawings are not permitted in international applications (see PCT

Rule 11.13), or in an application, or copy thereof, submitted under the Office electronic filing system. The Office will accept color drawings in utility or design patent applications and statutory invention registrations only after granting a petition filed under this paragraph explaining why the color drawings are necessary.

For the reasons indicated above, Petitioner's request for color drawings on April 17, 2006 is hereby denied.

Any question regarding this decision should be directed to SPE Khoi Tran at (571) 272-6919.

Summary: ***Petition Denied***

Khoi H. Tran
Supervisory Patent Examiner Art Unit 3664
(571) 272-6919
KT – 12/06/2011

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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KEITH L JENKINS REGISTERED PATENT ATTORNEY LLC
44075 W NEELY DRIVE
MARICOPA AZ 85138

MAILED
SEP 20 2011
OFFICE OF PETITIONS

In re Application of	:	
Heffez	:	
Application No. 11/405,789	:	ON PETITION
Filed: April 18, 2006	:	
Attorney Docket No. HE08022	:	

This is in response to petition to revive under 37 CFR 1.137(b), filed September 7, 2011.

The petition under 37 CFR 1.137(b) is **DISMISSED AS MOOT**.

The Office mailed a final Office action on April 11, 2011. This Office action set a shortened statutory period for reply of three (3) months. Applicant filed an Amendment on August 4, 2011, made timely by obtaining a one month extension of time. However, on August 24, 2011, the Office mailed an Advisory Action, in which the Examiner indicated that the Amendment would not be entered because if failed to place the application in condition for allowance.

The six month statutory period for reply has not yet expired. Accordingly, the instant petition is being treated as a request for a two month extension of time. The fee for a two month extension of time is $245. Applicant submitted $810 for the instant petition. In view thereof, $565 is being refunded to petitioner's credit card.

The application is being forwarded to Group Art Unit 2438 for consideration of the RCE, filed September 7, 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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DEC 15 2010
OFFICE OF PETITIONS

ANDREA Q. RYAN
SANOFI-AVENTIS U.S. LLC
1041 ROUTE 202-206
MAIL CODE: D303A
BRIDGEWATER NJ 08807

In re Patent of Schudok et al.	:	DECISION ON REQUEST
Patent No. 7,772,270	:	FOR RECONSIDERATION OF
Issue Date: August 10, 2010	:	PATENT TERM ADJUSTMENT
Application No. 11/405,834	:	and
Filed: April 18, 2006	:	NOTICE OF INTENT TO ISSUE
Docket No. DEAV2003/0001 US CIP1	:	CERTIFICATE OF CORRECTION

This is a decision on the petition under 37 CFR 1.705(d), filed on October 8, 2010, requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by three hundred thirty-eight (338) 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 thirty-eight (338) days is **granted to the extent indicated herein.**

The sole issue pertains to the three years to issue guarantee of 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b) (hereinafter, "B delay"). The Office concurs with patentees' assertion that the maximum B delay period begins on April 19, 2009, which is one day after three years after the filing of the application on April 18, 2006, and ends on August 10, 2010, when the patent issued, and is 479 days.

However, patentees' calculation of the B delay does not take into consideration the excluded appellate period. As stated in 35 U.S.C. 154(b)(1)(B)(ii), B delay does not include "any time consumed by appellate review by the Board of Patent Appeals and Interferences." The period of B delay does not include the 35 day period beginning on March 2, 2010, the date the Notice of Appeal was filed, and ending on April 5, 2010, the date the

Office mailed a Notice of Allowance and Fee(s) Due. Excluding the 35 days consumed by appellate review results in a period of B delay of 444 days (479 B maximum - 35 excluded appellate period).

In light thereof, the correct patent term adjustment is 303 days, which is the sum of 78 days of delay under 35 U.S.C. 154(b)(1)(A) and 444 days of B Delay, reduced by 219 day 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 three hundred three (303)** 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 : 7,772,270 B2

DATED : **August 10, 2010** **DRAFT**

INVENTOR(S) : Schudok 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 304 days

Delete the phrase "by 304 days" and insert – by 303 days--

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BAXANO / SHAY GLENN LLP
2755 CAMPUS DRIVE, SUITE 210
SAN MANTEO, CA 94403

MAILED
APR 01 2011
PCT LEGAL ADMINISTRATION

In re Application of	:	
BLEICH et al	:	
Application No.: 11/405,848	:	DECISION ON PETITION
Filing Date: April 17, 2006	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No.: 10376-700.501	:	AND 1.78(a)(6)
	:	

This is a decision on the petition under 37 CFR 1.78(a)(3) and 1.78(a, filed August 12, 2010, to accept an unintentionally delayed claim under 35 U.S.C. 120 for the benefit of priority to the prior-filed international application set forth in the amendment filed concurrently with the instant petition and an unintentionally delayed claim under 35 U.S.C. 119(e) for the benefit of priority to the prior-filed provisional applications set forth in the same amendment.

The petition is **DISMISSED**.

A petition for acceptance of a late claim for 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 37 CFR 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition does not satisfy item (1) above.

In particular, an amendment or application data sheet (ADS) filed after the filing of an appeal may be admitted only in the limited circumstances set forth in 37 CFR 41.33. In the present case, the proposed amendment and ADS were filed after appeal, and petitioner has not demonstrated why entry of such amendment should be permitted under the rules.

Furthermore, even if the amendment were permitted, the reference to add the prior-filed applications on page one following the first sentence of the specification is not acceptable as drafted since it improperly incorporates by reference the prior-filed provisional applications. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. 120 after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. 120 is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP 201.06(c) and 608.04(b).

Any further correspondence with respect to this matter may be filed electronically via EFS-Web selecting the document description "Petition for review and processing by the PCT Legal Office" or by mail addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Bryan Lin

Bryan Lin
Legal Examiner
Office of PCT Legal Administration
(571) 272-3303

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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JUL 27 2011

PCT LEGAL ADMINISTRATION

BAXANO / SHAY GLENN LLP
2755 CAMPUS DRIVE, SUITE 210
SAN MANTEO, CA 94403

In re Application of BLEICH et al Application No.: 11/405,848 Filing Date: April 17, 2006 Attorney Docket No.: 10376-700.501	: : : : : :	DECISION ON PETITION UNDER 37 CFR 1.78(a)(3) AND 1.78(a)(6)

This is a decision on the renewed petition under 37 CFR 1.78(a)(3) and 1.78(a)(6), filed June 1, 2011, to accept an unintentionally delayed claim under 35 U.S.C. 120 for the benefit of priority to the prior-filed international application set forth in the amendment filed concurrently with the instant petition and an unintentionally delayed claim under 35 U.S.C. 119(e) for the benefit of priority to the prior-filed provisional applications set forth in the same amendment.

The petition is **DISMISSED**.

A petition for acceptance of a late claim for 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 37 CFR 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition does not satisfy item (1) above.

In particular, an amendment or application data sheet (ADS) filed after the filing of an appeal may be admitted only in the limited circumstances set forth in 37 CFR 41.33. In the present case, the proposed amendment and ADS were filed after appeal, and petitioner has not demonstrated why entry of such amendment should be permitted under the rules.

Any further correspondence with respect to this matter may be filed electronically via EFS-Web selecting the document description "Petition for review and processing by the PCT Legal Office" or by mail addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Bryan Lin

Bryan Lin
Legal Examiner
Office of PCT Legal Administration
(571) 272-3303

UNITED STATES PATENT AND TRADEMARK OFFICE

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BAXANO / SHAY GLENN LLP
2755 CAMPUS DRIVE, SUITE 210
SAN MANTEO, CA 94403

MAILED

DEC 22 2011

PCT LEGAL ADMINISTRATION

In re Application of	:	
BLEICH et al	:	
Application No.: 11/405,848	:	DECISION ON PETITION
Filing Date: April 17, 2006	:	UNDER 37 CFR 1.78
Attorney Docket No.: 10376-700.501	:	

This is a decision on the renewed petition under 37 CFR 1.78(a)(3) and 1.78(a)(6), filed October 19, 2011, to accept an unintentionally delayed claim under 35 U.S.C. 120, 365(c) and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The petition is **GRANTED**.

The present nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii) and 1.78(a)(5)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3) and 1.78(a)(6).

A petition for acceptance of a late claim for priority under 37 CFR 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. 120 and 119(e) and 37 CFR 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in 37 CFR 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional where there is a question whether the delay was unintentional.

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) and 1.78(a)(6) in that (1) a reference to the prior-filed applications has been included in an amendment to the first sentence of the specification following the title as provided by 37 CFR

1.78(a)(2)(iii) and 1.78(a)(5)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains an acceptable statement of unintentional delay. With further regard to the statement of unintentional delay, the statement of unintentional delay contained in the petition differs slightly from the required language and is hereby construed as a statement that the entire delay between the date the claim was due under 37 CFR 1.78 (a)(2)(ii) and 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. If this interpretation is incorrect, applicant is required to immediately notify the Office. As construed, the statement of unintentional delay is acceptable. Accordingly, having found that the petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. 120 and 119(e) to the prior-filed applications satisfies the conditions of 37 CFR 1.78(a)(3) and 1.78(a)(6), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) and 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. 120 and 365(c) and 1.78(a)(1) and (a)(2) and under 35 U.S.C. 119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether this application is entitled to the benefit of the earlier filing date.

Any questions concerning this matter may be directed to Bryan Lin at (571) 272-3303. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center Art Unit 3775 for appropriate action, including consideration by the examiner of the claim for benefit of the prior-filed applications.

BryanLin

Bryan Lin
Legal Examiner
Office of PCT Legal Administration

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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	:	
Jonathan W. Ellis	:	DECISION ON PETITION
Application No. 11/405,995	:	TO WITHDRAW
Filed: April 18, 2006	:	FROM RECORD
Attorney Docket No. AD1-0008US	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 26, 2011.

The request is **NOT APPROVED**.

The Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest *who properly became of record under 37 CFR 3.71,* or, if no assignee of the entire interest has properly been made of record, the most current address information provided for the first named inventor. 37 CFR 3.71(c) states:

An assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement in compliance with § 3.73(b) that is signed by a party who is authorized to act on behalf of the assignee.

According to a review of current USPTO records petitioner has not requested the address be changed to a properly recorded assignee or the first listed inventor. The Customer Number 55922 is neither the first named inventor nor the assignee who properly became of record under 37 CFR 3.71 As such, all future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Further, the address given on the petition differs from the address of record. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Currently, there is an outstanding Office action mailed February 9, 2011 that requires a reply.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-7751.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: LEE & HAYES, PLLC
601 W RIVERSIDE
SUITE 1400
SPOKANE, WA 99201

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Commissioner for Patents
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SEP 24 2010

OFFICE OF PETITIONS

CAMPBELL STEPHENSON LLP
11401 CENTURY OAKS TERRACE
BLDG H SUITE 250
AUSTIN TX 78758

In re Patent No. 7,571,290	:	
Issue Date: August 4, 2009	:	
Filed: April 18, 2006	:	DECISION ON PETITION
Application No. 11/406,015	:	
	:	

This is a decision on the "REQUEST UNDER 37 CFR 3.81(B) FOR PATENT TO BE CORRECTED TO STATE THE NAME OF THE CORRECT ASSIGNEE", filed February 2, 2010.

The petition is **GRANTED**.

An application may issue in the name of an assignee rather than the applicant if requested prior to issuance of a patent.[1] However, in the event the request is not made prior to issuance, a Certificate of Correction under 37 CFR 1.323 may be requested. A request for a Certificate of Correction under 37 CFR 1.323 to correct the assignee's name will not be granted unless a petition under 37 CFR 3.81(b) is granted. Such request under 37 CFR 3.81(b) should include:

(A) the processing fee required by 37 CFR 1.17(i);

(B) a request for issuance of the application in the name of the assignee, or a request that a patent be corrected to state the name of the assignee;

---

[1] See 37 CFR 3.81.

(C) a statement that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent; and

(D) a request for a certificate of correction under 37 CFR 1.323 accompanied by the fee set forth in 37 CFR 1.20(a).[2]

Petitioner has met requirements (A) - (D) above.

The application is being forwarded to the Certificate of Correction Branch for issuance of the Certificate of Correction, filed February 2, 2010.

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

[2] MPEP 307.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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MARGARET ANDERSON
106 E. 6TH STREET, SUITE 900
AUSTIN, TX 78701

MAILED

FEB 28 2011

OFFICE OF PETITIONS

In re Application of

Edward K.Y. Jung et al
Application No. 11/406,047
Filed: April 18, 2006
Attorney Docket No.: QQ1-0174US

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : September 2, 2010

TO SPE OF : ART UNIT 2878 - SPE Georgia Y. Epps

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/406,048 Patent No.: 7,372,061 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square Building
2800 South Randolph Street
Arlington, VA 22206

Antonio Johnson

Should the correction in claim 32 to change "light" to read --ultrasound-- be approved?
See COCIN dated 08-06-2010

_____
Certificates of Correction Branch
(571)272-0483

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

_____

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

SPE ~~2878~~ Art Unit 2878

Georgia Y. Epps

SPE Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 03-30-11

TO SPE OF : ART UNIT 2618

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/406070 Patent No.: 7881671

CofC mailroom date: 03-08-11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Angela Green
Certificates of Correction Branch
(703) 756-1541

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- [X] **Approved** — All changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: _____

Request for change/correction has been acknowledged and approved.
/April Gonzales/ 03/01/2012

SPE **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 03-30-11

TO SPE OF : ART UNIT 2618

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/406070 Patent No.: 7881671

CofC mailroom date: 03-08-11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Angela Green
Certificates of Correction Branch
(703) 756-1541

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- [X] **Approved** — All changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: _____

Request for change/correction has been acknowledged and approved.
/April Gonzales/ 03/01/2012

SPE **Art Unit**

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BAKER & MCKENZIE LLP
PATENT DEPARTMENT
2001 ROSS AVENUE
SUITE 2300
DALLAS, TX 75201

Mail Date: 08/05/2010

Applicant	: Ling-Shiou Huang	: DECISION ON REQUEST FOR
Patent Number	: 7657087	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/406,072	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/18/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **960** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Paper No.

WALKER DIGITAL MANAGEMENT, LLC
2 HIGH RIDGE PARK
STAMFORD CT 06905

MAILED
DEC 01 2010
OFFICE OF PETITIONS

In re Application of :
Walker et al. :
Application No. 11/406,130 :
Filing Date: April 18, 2006 :
Attorney Docket No.: 01-006-C1 :
Title: METHOD AND APPARATUS FOR :
REMOTELY CUSTOMIZING A GAMING :
DEVICE :

DECISION ON SECOND RENEWED PETITION PURSUANT TO 37 C.F.R. § 1.78(A)(3)

This is a decision on the second renewed petition pursuant to 37 C.F.R. § 1.78(a)(3), filed April 7, 2010 to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to a prior-filed U.S. application, set forth in an amendment to the specification filed concurrently with this second renewed petition.

This second renewed petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 C.F.R. § 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 C.F.R. 1.78(a)(2)(ii). In addition, the petition under 37 C.F.R. 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 C.F.R. §1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 C.F.R. § 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

37 C.F.R. § 1.78(a)(3)(iii) requires a statement that the entire delay between the date the claim was due under paragraph (a)(2)(ii) of 37 C.F.R. § 1.78 and the date the claim was filed was unintentional. Since the statement contained in this second renewed petition varies slightly from the language required by 37 C.F.R. § 1.78(a)(3)(iii), the statements contained in this second renewed petition, the renewed petition, and the original petition are being construed as the statement required by 37 C.F.R. § 1.78(a)(3)(iii), and Petitioner must notify the Office if this is not a correct interpretation of the statements contained in these petitions.

An original petition pursuant to 37 C.F.R. § 1.78(a)(3) was filed on September 10, 2009, and was dismissed via the mailing of a decision on October 26, 2009, which indicated that Petitioner had submitted a benefit claim, the surcharge, and a statement that is being construed as the proper statement of unintentional delay. The decision further indicated that requirements (2) and (3) of 37 C.F.R. § 1.78(a)(3) have been satisfied, and that neither an amendment to the specification nor a Supplemental Application Data sheet was provided with the original petition.

A renewed petition pursuant to 37 C.F.R. § 1.78(a)(3) was filed on December 19, 2009, which was dismissed via the mailing of a decision on March 4, 2010.

With this second renewed petition, Petitioner has submitted an amendment, and has clarified that priority is sought for application No. 09/962,065, but not 09/521,875.[1]

All of the above requirements having been satisfied, the late claim for priority pursuant to 35 U.S.C. § 120 is accepted as being unintentionally delayed.

The granting of this petition to accept the delayed benefit claim to the prior-filed application pursuant to 37 C.F.R. § 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 120 and 37 C.F.R. §§ 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that Applicant is entitled to the claim for benefit of priority to the prior-filed

1 Second renewed petition, page 2.

application noted thereon. Accordingly, the Examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional application, accompanies this decision on petition.

This application is being forwarded to Technology Center Art Unit 3716 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed application.

Telephone inquiries regarding this decision should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.[2]

Chris Bottorff
Supervisor
Office of Petitions

Encl. Corrected Filing Receipt

2 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

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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
11/406,130	04/18/2006	3716	2400	01-006-C1	32	5

CONFIRMATION NO. 4774

CORRECTED FILING RECEIPT

22927
WALKER DIGITAL MANAGEMENT, LLC
2 HIGH RIDGE PARK
STAMFORD, CT 06905

OC000000044740375

Date Mailed: 12/01/2010

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)

Jay S. Walker, Ridgefield, CT;
James A. Jorasch, Stamford, CT;
Geoffrey M. Gelman, Stamford, CT;
Steven M. Santisi, Ridgefield, CT;

Power of Attorney: The patent practitioners associated with Customer Number 22927

Domestic Priority data as claimed by applicant

This application is a CIP of 09/962,065 09/25/2001 PAT 7,033,276
which is a CIP of 09/481,204 01/11/2000 PAT 6,293,866
and is a CIP of 09/768,567 01/24/2001 PAT 6,425,828
and said 09/481,204 01/11/2000
is a CON of 08/775,388 12/30/1996 PAT 6,110,041
and said 09/768,567 01/24/2001
is a CON of 09/028,781 02/24/1998 PAT 6,224,486
which is a CON of 08/635,576 04/22/1996 PAT 5,779,549

Foreign Applications

If Required, Foreign Filing License Granted: 05/23/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/406,130**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: Yes

Title

Method and apparatus for remotely customizing a gaming device

Preliminary Class

463

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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AMGEN INC.
MAIL STOP 28-2-C
ONE AMGEN CENTER DRIVE
THOUSAND OAKS CA 91320-1799

MAILED
SEP 2 8 2010
OFFICE OF PETITIONS

In re Application :
Sullivan, et al. :
Application No. 11/406,454 : PATENT TERM ADJUSTMENT
Filing or 371(c) Date: April 17, 2006 :
Dkt. No.: A-1006 :

This is in response to the application for patent term adjustment filed September 1, 2010. This matter is being properly treated under 37 CFR 1.705(b) as an application for patent term adjustment.

The application for patent term adjustment is GRANTED IN PART and DISMISSED IN PART.

The Notice of Allowance mailed July 16, 2010 indicates that that the application is entitled to a patent term adjustment of 319 days. The instant application for patent term adjustment was timely filed in accordance with 37 CFR 1.705(b).

Applicants assert that the instant application is entitled to 188 days of adjustment pursuant to 37 CFR 1.703(b).

Applicants also contest the reduction of 32 days in connection with the response to the Notice to File Missing Parts mailed May 5, 2006. Applicants assert that the correct reduction in this regard is 31 days, the reply having been filed September 5, 2006 and not September 6, 2006, as indicated in USPTO records.

37 CFR 1.702(b)

Insofar as the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is DISMISSED as PREMATURE.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See, § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office

delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and **must** include payment of the required fee under 37 CFR 1.18(e).

37 CFR 1.704(b)

The one day reduction of patent term adjustment pursuant to § 1.704(b) in connection with the reply filed April 27, 2009 is not contested.

Applicants contest the reduction of 32 days assessed pursuant to §1.704(b). Applicants assert that in response to the Notice to File Missing Parts mailed May 5, 2006, a reply was filed via USPS Express Mail on September 5, 2006, not September 6, 2006, as indicated in USPTO records. Thus, applicants assert that the correct reduction in this regard is 31 days, not 32 days.

Review of the record reveals that the Notice to File Missing Parts mailed May 5, 2006 was withdrawn and a new Notice mailed on October 5, 2006. In view of the withdrawal of the Notice

[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.

to File Missing Parts to which the reduction is attributed, the reduction of 32 days has been withdrawn.

Accordingly, the request for reconsideration of the patent term adjustment in this regard is granted to the extent indicated herein.

37 CFR 1.704(c)(8)

Further review of the record reveals that the Office neglected to assess a reduction of three days in connection with the submission filed on October 26, 2009. In accordance with 37 CFR 1.704(c)(8), submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been file is a failure to engage in reasonable efforts to conclude prosecution. Accordingly, the patent term adjustment is subject to a three day reduction, the reduction having commenced October 24, 2009, the day after the date that the initial reply was filed, and ended October 26, 2009, the date that the supplemental reply was filed.

CONCLUSION

Accordingly, for the reasons set forth herein, as of the time of allowance, the application was entitled to an overall adjustment of 347 days (352 days per § 1.703(a)(1) - 4 days for applicant delays per § 1.704).

Receipt is hereby acknowledged of the $200.00 patent term adjustment application fee required per 37 CFR 1.705(b)(1).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

Enclosure: Adjusted PAIR Calculation

Day : Thursday
Date: 9/23/2010

PALM INTRANET

Time: 12:15:55

PTA Calculations for Application: 11/406454			
Application Filing Date:	04/17/2006	PTO Delay (PTO):	352
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	33
Post-Issue Petitions:	0	Total PTA (days):	348
PTO Delay Adjustment:	29		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
88	09/23/2010	ADJUSTMENT OF PTA CALCULATION BY PTO		3	
87	09/23/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	32		
75	07/16/2010	MAIL NOTICE OF ALLOWANCE			
74	07/15/2010	DOCUMENT VERIFICATION			
73	07/15/2010	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
72	07/06/2010	ALLOWED CASE RETURNED TO THE EXAMINER FOR CLERICAL PROCESSING			
71	07/06/2010	NOTICE OF ALLOWABILITY			
70	04/29/2010	DATE FORWARDED TO EXAMINER			
69	04/21/2010	RESPONSE AFTER NON-FINAL ACTION			
68	03/30/2010	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
67	03/26/2010	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
66	01/21/2010	MAIL NON-FINAL REJECTION			
65	01/19/2010	NON-FINAL REJECTION			
64	10/26/2009	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
63	10/26/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
62	10/23/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
61	10/27/2009	DATE FORWARDED TO EXAMINER			
60	10/23/2009	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
59	10/27/2009	DATE FORWARDED TO EXAMINER			
58	10/23/2009	REQUEST FOR CONTINUED EXAMINATION			

		(RCE)			
57	10/27/2009	DISPOSAL FOR A RCE / CPA / R129			
56	10/26/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
54	10/23/2009	WORKFLOW - REQUEST FOR RCE - BEGIN			
53	07/23/2009	MAIL FINAL REJECTION (PTOL - 326)			
52	07/20/2009	FINAL REJECTION			
51	05/14/2009	DATE FORWARDED TO EXAMINER			
50	04/27/2009	RESPONSE AFTER NON-FINAL ACTION		1	49
49	01/26/2009	MAIL NON-FINAL REJECTION			
48	01/21/2009	NON-FINAL REJECTION			
47	01/21/2009	DATE FORWARDED TO EXAMINER			
46	01/21/2009	LETTER WITHDRAWING / VACATING OFFICE ACTION			
45	12/02/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
44	12/02/2008	ELECTRONIC INFORMATION DISCLOSURE STATEMENT			
43	12/02/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
42	09/09/2008	MAIL NON-FINAL REJECTION			
41	09/02/2008	NON-FINAL REJECTION			
40	12/26/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
39	06/11/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
38	06/28/2008	DATE FORWARDED TO EXAMINER			
37	06/18/2008	RESPONSE TO ELECTION / RESTRICTION FILED			
36	06/03/2008	MAIL RESTRICTION REQUIREMENT	352		-1
35	05/30/2008	REQUIREMENT FOR RESTRICTION / ELECTION			
31	05/21/2008	CASE DOCKETED TO EXAMINER IN GAU			
30	06/11/2007	REFERENCE CAPTURE ON IDS			
29	06/11/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
28	06/11/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
27	04/04/2007	CASE DOCKETED TO EXAMINER IN GAU			
26	03/29/2007	PG-PUB ISSUE NOTIFICATION			
25	01/19/2007	IFW TSS PROCESSING BY TECH CENTER COMPLETE			

24	12/26/2006	REFERENCE CAPTURE ON IDS			
23.7	12/26/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
23	12/26/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
22	12/21/2006	APPLICATION RETURN FROM OIPE			
21	12/21/2006	APPLICATION IS NOW COMPLETE			
20	12/05/2006	ADDITIONAL APPLICATION FILING FEES			
19	12/18/2006	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
17	05/05/2006	PRE-EXAM OFFICE ACTION WITHDRAWN			
16	09/26/2006	PRE-EXAM OFFICE ACTION WITHDRAWN			
15	09/26/2006	APPLICATION RETURN TO OIPE			
14	09/25/2006	APPLICATION DISPATCHED FROM OIPE			
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11	09/06/2006	A SET OF SYMBOLS AND PROCEDURES, PROVIDED TO THE PTO ON A SET OF COMPUTER LISTINGS, THAT DESCRIBE IN			
10	09/06/2006	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
9	09/06/2006	APPLICANT HAS SUBMITTED NEW DRAWINGS TO CORRECT CORRECTED PAPERS PROBLEMS			
8	05/08/2006	CLEARED BY L&R (LARS)			
7	05/05/2006	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
6	05/03/2006	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			
5	05/03/2006	CASE CLASSIFIED BY OIPE			
4	04/29/2006	IFW SCAN & PACR AUTO SECURITY REVIEW			
3	04/27/2006	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
2	04/17/2006	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
1	04/17/2006	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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OFFICE OF PETITIONS

In re Application of	:	
Ricardo Santiago IGNARRA et al.	:	
Application No. 11/406,456	:	DECISION ON PETITION
Filed: April 18, 2006	:	
Attorney Docket No. 728244.0001	:	

This is a decision on the petition under 37 CFR 1.137(b), filed November 4, 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 April 13, 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) was obtained and as such, the case was abandoned July 14, 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 a Notice of Appeal and $310 appeal fee; (2) the petition fee of $930; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office Action of April 13, 2011 is accepted as having been unintentionally delayed. It is noted that Applicant has paid $270 for the appeal fee on November 16, 2010. However, as indicated in the Office Action of April 13, 2011, page 2, initiation of a new appeal requires that appellant pay the difference between the increased fees and the amount previously paid. Since September 26, 2011, the fee schedule has been updated. As such, petitioner has been charged an additional $40.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the office will mail all future correspondence solely to the address of record.

The two-month period for filing an appeal brief under 37 CFR 41.37(a)(1), accompanied by the fee required by 37 CFR 41.20(b)(2) runs from the date of this decision.

Telephone inquiries concerning this decision should be directed to Joanne Hama at (571) 272-2911 or in her absence to the undersigned at (571) 272-7099.

The application file is being referred to Technology Center AU 3751.

David Bucci
Petitions Examiner
Office of Petitions

Cc: Ying Chen
255 S. Grand Ave., #215
Los Angeles, CA 90012

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PCT LEGAL ADMINISTRATION

BAXANO C/O SHAY LAW
2755 CAMPUS DRIVE SUITE 210
SAN MATEO CA 94403

In re Application of		
Saadat et al.	:	DECISION ON PETITIONS
Application No. 11/406,486	:	
Filed: April 17, 2006	:	UNDER 37 CFR 1.78(a)(3) AND
Attorney Docket No. 10376-700.502	:	
For: Powered Tissue Modification	:	UNDER 37 CFR 1.78(a)(6)
Devices And Methods	:	

This is a decision on the petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed August 12, 2010 and supplemented on January 6, 2011, to accept an unintentionally delayed claim under 35 U.S.C. §§120, 365(c) and 119(e) for the benefit of the prior-filed applications set forth in the amendment filed on January 6, 2011.

The petitions are **GRANTED**.

The present nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii) and 1.78(a)(5)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3) and 1.78(a)(6).

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional where there is a question whether the delay was unintentional.

The petition complies with the requirements for a grantable petition under 37 CFR §§1.78(a)(3)

and 1.78(a)(6) in that (1) a reference to the prior-filed applications has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR §§ 1.78(a)(2)(iii) and 1.78(a)(5)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a statement of unintentional delay which differs slightly from the required language. Said statement of unintentional delay is being interpreted as a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. If such interpretation is incorrect, applicant is required to promptly notify this Office. Accordingly, having found that the petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. §§ 120 and 119(e) to the prior-filed applications satisfies the conditions of 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should <u>not</u> be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §§120 and 365(c) and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should <u>not</u> 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 George Dombroske. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center Art Unit 3775 for appropriate action on the amendment submitted January 6, 2011, including consideration by the examiner of the claim for benefit of the prior-filed applications.

/George Dombroske/
George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration

/Bryan Lin/
Bryan Lin
PCT Legal Examiner
Office of PCT Legal Administration

ATTACHMENT : Corrected Filing Receipt

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FISH & RICHARDSON P.C. (BO)
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

In re Patent of Harikumar et al.	:	
Patent No. 7,953,040	:	
Issue Date: May 31, 2011	:	DECISION ON REQUEST
Application No. 11/406,600	:	FOR RECONSIDERATION OF
Filing Date: April 19, 2006	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 12144-0034001	:	

This is a decision on the petition filed August 1, 2011, which is being treated as a petition under 37 C.F.R. § 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by five hundred fifty-four (554) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **DISMISSED.**

BACKGROUND

The application matured into Patent No. 7,953,040 on May 31, 2011, with a revised patent term adjustment of 455 days.

Patentees timely submitted the instant petition and the required fee on August 1, 2011.

The petition asserts the correct number of days of patent term adjustment is 554 days. Patentees maintain the Office incorrectly calculated Office delay pursuant to 37 C.F.R. § 1.702(b). Patentee contends that the Office erred in subtracting from the period of "B delay" a period of time that was not "consumed by continued examination of the application." Specifically, Patentees argue that (after the filing of the request for continued examination) the Office mailed a Notice of Allowance on February 22, 2011, thereby closing examination of the application on that date. Thus, Patentees argue no continued examination took place during the 99-day period from February 22, 2011 (the mailing date of the Notice of Allowance) until May 31, 2011 (the date the patent was issued). As such, Patentees maintain the period of "B delay" should include the 99 days and be increased from 108 day to 207 days. Patentees conclude the correct patent

term adjustment is 554 days (the sum of 462 days of "A delay" and 207 days of "B delay" reduced by 115 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:

> 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:

> 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

Patentees' 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 C.F.R. § 1.702(b)(1) as 108 days based on the application having been filed under 35 U.S.C. § 111(a) on April 19, 2006, and the patent not having issued as of the day after the three year date, July 20, 2006, and a request

for continued examination under 35 U.S.C. § 132(b) having been filed on August 6, 2009. In other words, the 99-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 an 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. Patentees do not dispute that time consumed by continued examination of an application under 35 U.S.C. § 132(b) is properly excluded and that the calculation of the excluded period begins on the date of filing of the request for continued examination. At issue is what further processing or examination beyond the date of filing of the request for continued examination is 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 C.F.R. § 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 C.F.R. § 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.

---

[1] Pursuant to 35 U.S.C. § 132(b), 37 C.F.R. § 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.

Patentees' argument that the period of time after the issuance of a notice of allowance on a request for continued examination is not "any time consumed by continued examination requested by the applicant under section 132(b)" within the meaning of 35 U.S.C. § 154(b)(1)(B)(i) is not availing. This limitation is not supported by the statutory language. *Garcia v. United States*, 469 U.S. 70, 75 (1984) ("only the most extraordinary showing of contrary intentions from [legislative history] would justify a limitation on the 'plain meaning' of the statutory language"). *BP Am. Prod. Co. v. Burton*, 549 U.S. 84, 91 (2006) ("Unless otherwise defined, statutory terms are generally interpreted in accordance with their ordinary meaning"). The statute provides for a guarantee of no more than 3-year application pendency, by providing for an adjustment in the patent term as follows:

1. 35 U.S.C. § 154(b)(1)(B) states the provisions of the section are "Subject to the limitations of paragraph (2)."

   "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.

2. 35 U.S.C. § 154(b)(1)(B) includes the following language: "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."

   The language quoted directly above means 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."

3. 35 U.S.C. § 154(b)(1)(B) includes the following language: "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 language quoted directly above means 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)).

Clauses in the statute are interpreted using their ordinary meanings. Nonetheless, the context of the legislation should be considered. As stated in *Wyeth v. Dudas*, 580 F.Supp. 138 (D.D.C., September 30, 2008), because the clock for calculating the 20-year patent term begins to run on the filing date, and not on the day the patent is actually granted, some of the effective term of a patent is consumed by the time it takes to prosecute the application. To mitigate this effect, the statute, *inter alia*, grants adjustments of patent term whenever the patent prosecution takes more than three years, regardless of the reason. The time consumed by prosecution of the application includes every day the application is pending before the Office from the actual filing date of the application in the United States until the date of issuance of the patent. The time it takes to prosecute the application ends not with the mailing of the notice of allowance, but with the issuance of the patent.

Thus, not including "any time consumed by" means not including any days used to prosecute the application as specified in clauses (i)-(ii).[2] Clause (i) specifies "any time consumed by continued examination of the application requested by the applicant under section 132(b)." Clause (ii) specifies "any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court." "Time" in the context of this legislation throughout refers to days. "Consumed by" means used by or used in the course of. *Websters Collegiate Dictionary*, (11th ed.). The "any" signifies that the days consumed by are "any" of the days in the pendency of the application, and not just days that occur after the application has been pending for 3 years. As such, "any time consumed by" refers to any days used in the course of 1) continued examination of the application under section 132(b)(the filing of a request for continued examination), 2) interference proceedings, 3) secrecy orders, and 4) appellate review. Thus, that 3-year period given to the Office to issue a patent before an adjustment will accrue for "B delay" does not include any days used in the course of or any time consumed by clauses (i)-(ii), including any time consumed by the filing of a request for continued examination.

[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.

4. 35 U.S.C. § 154(b)(1)(B) includes the following language: "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 language quoted directly above means the consequence of a failure to issue the patent within the 3-year period 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 C.F.R. § 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 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 C.F.R. § 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 C.F.R. § 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 C.F.R. §§ 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 C.F.R. § 1.97(d). In addition, 37 C.F.R. § 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 C.F.R. § 1.114 even after the issuance of a notice of allowance under 35 U.S.C. § 151. *See* 37 C.F.R. § 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 C.F.R. § 1.53(b).

All of the continued examination pursuant to the filing of the request by the applicant is properly excluded from the delay attributed to the Office. 35 U.S.C. § 154(b)(1)(B)'s guarantee of a total application pendency of no more than three years provides for adjustment of the patent term for delay due to the Office's

[3] Thus, on occasion, even where a request for continued examination has already been filed and a notice of allowance issued pursuant to that request, applicant may file a further request for continued examination.

failure to issue the patent within three years, but does not include "any time consumed by continued examination requested by the applicant under 35 U.S.C. § 132(b)." It is not necessary to mitigate the effect on the 20-year term to the extent that applicant has requested that the Office continue to examine the application via a request for continued examination, in lieu of, the filing of a continuing application under 37 C.F.R. § 1.53(b).

In this case, a request for continued examination was filed August 6, 2009, and the patent issued by virtue of that request on May 31, 2011. Pursuant to 35 U.S.C. § 154(b)(1)(B)(i), the period beginning August 6, 2009, and ending May 31, 2011, is not included in calculating Office delay.

CONCLUSION

In view of the prior discussion, it is concluded the patent term adjustment of 455 days indicated on the patent is correct.

Telephone inquiries specific to this matter 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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THE PROCTER & GAMBLE COMPANY
Global Legal Department - IP
Sycamore Building - 4th Floor
299 East Sixth Street
CINCINNATI, OH 45202

Mail Date: 08/04/2010

Applicant	: William Hollis Hood	: DECISION ON REQUEST FOR
Patent Number	: 7659372	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/406,614	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/19/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **289** 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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STOCKTON LLP
TWO EMBARCADERO CENTER
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OFFICE OF PETITIONS

In re Application of	:	
Watkins, et al.	:	
Application No. 11/406,674	:	
Filed: April 18, 2006	:	
Patent No. 8,017,342	:	ON REQUEST FOR
Issued: September 13, 2011	:	RECONSIDERATION OF
Attorney Docket Number: 71401-707709	:	PATENT TERM ADJUSTMENT

This is a decision on the petition under 37 CFR 1.705(d), filed November 11, 2011. Patentees request that the determination of patent term adjustment be corrected from one thousand forty-six (1046) days to one thousand forty-seven (1047) days.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment is **DISMISSED**.

On September 13, 2011, the instant application matured into U.S. Patent No. 8,017,342 with a patent term adjustment of 1046 days. The Office determined a patent term adjustment of 1046 days based upon 760 days of "A" delay and 312 days of "B" delay, reduced by 26 days of Applicant delay.

Patentees argue that they should have been assessed 313 days of "B" delay, not 312 days as currently assessed. Patentees' argument has been considered, but is not persuasive.

37 CFR 1.703(b)(1) sets forth, *in toto*:

(b) The period of adjustment under § 1.702(b) is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the sum of the following periods:

(1) The number of days, if any, in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued;

It follows that the proper manner of calculating the RCE-cutoff is to terminate the over three year period on the day before the RCE was filed, since 37 CFR 1.703(b)(1) expressly states that the day on which the RCE was filed is not included in the over three year period. The application was filed on April 18, 2006. Accordingly, the over three year period began on April 19, 2009 and ended on February 24, 2010 (the day before the RCE was filed), and is 312 days. See 35 U.S.C. 154(b)(1)(B)(i).

Accordingly, at issuance, the Office properly entered 312 days of patent term adjustment for the Office taking in excess of three years to issue the patent.

In view thereof, the correct number of days of patent term adjustment is **one thousand forty-six (1046) days.**

Receipt of the $200 fee for filing the instant application for patent term adjustment is acknowledged.

Telephone inquiries specific to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/406,705	04/19/2006	Jeffrey James Vanderbilt	070178-051	6244

70471 7590 08/05/2011
PHAN LAW GROUP PLLC
P.O. BOX 748
ALEXANDRIA, VA 22313-0748

EXAMINER
KOSACK, JOSEPH R

ART UNIT	PAPER NUMBER
1626	

MAIL DATE	DELIVERY MODE
08/05/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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P.O. BOX 748
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: PETITION DECISION

In re Application of:
Vanderbilt et al.
Serial No.: 11/406,705
Filed: April 19, 2006
Attorney Docket No.: **070178-051**

This is in response to the petition under 37 CFR § 1.181, filed July 7, 2011, requesting that the finality of the Office action of May 10, 2011 be withdrawn.

BACKGROUND

Relevant parts of the prosecution history are summarized below.

The examiner mailed a final Office action on February 23, 2010 setting a three month shortened statutory period for reply. In this Office action, claims 1-8, 11 and 13-15 were pending and were rejected. Specifically, claims 1-8, 11 and 13-15 were rejected under 35 U.S.C. 103(a) as being unpatentable over Liu in view of Sukhadia et al. and Knudsen et al.

On May 18, 2010, applicants filed a Notice of Appeal.

On July 13, 2010, applicants filed an Appeal Brief.

The examiner mailed an Examiner's Answer to applicants on October 4, 2010.

Applicants filed a Request for Continued Examination (RCE) with amendments to the claims on November 29, 2010.

The examiner mailed a final Office action on May 10, 2011 setting a three month shortened statutory period for reply. In this Office action, claims 1-8, 11 and 13-19 were pending and were rejected. Specifically, claims 1-8, 11 and 13-15 continued to be rejected under 35 U.S.C. 103(a) as being unpatentable over Liu in view of Sukhadia et al. and Knudsen et al.

In reply to the final Office action of May 10, 2011, applicants filed this petition under 37 CFR § 1.181 on July 7, 2011, requesting that the finality of the Office action of May 10, 2011 be withdrawn.

DISCUSSION

The petition and the file history have been carefully considered.

Applicants argue that "According to MPEP § 706.07(b), "[t]he claims of an application for which a request for continued examination (RCE) has been filed may be finally rejected in the action immediately subsequent to the filing of the RCE (with a submission and fee under 37 CFR 1.114) where all the claims in the application after the entry of the submission...are drawn to the same invention claimed in the application prior to the entry of the submission." MPEP § 706.07(b) at 700-84 (Rev. 6, Sept. 2007). In this case, all the claims in the application after entry of the submission are not drawn to the same invention claimed in the application prior to the entry of the submission. Applicants filed a Fifth Reply and Amendment together with the RCE on November 29, 2010. The Fifth Amendment deleted as well as added subject matter to claim 1--the only independent claim in the application. For example, the Amendment modified claim 1 by specifying that "the polymerization of step (c) is carried out in a high-pressure, solution, or gas-phase process." This provision was not in independent claim 1 prior to entry of the Fifth Amendment. As such, all the claims in the application after entry of 'the Fifth Amendment are not drawn to the same invention claimed prior to entry of the Fifth Amendment. Therefore, at least one condition required for making a first action final after entry of a 37 C.F.R, § 1.114 submission has not been satisfied. Accordingly; the finality of the Office Action mailed May 10, 2011, is premature and should be withdrawn."

Applicants' argument has been accorded careful consideration but it is not persuasive. It is noted that "step c" of claim 1 is currently almost exactly the same as what was originally claimed April 19, 2006 with the exception of the proviso. The rejection did not need modification since the extra limitation was found within the prior art references cited of record. It is considered that the invention is the same- a process for polymerization. The extra limitation does not result in a "different invention". Additionally, MPEP 706.07(b) states that when claims are drawn to the same invention and could have been properly finally rejected on the grounds and art of record in the next Office action if they had been entered into the application prior to the filing of the RCE under 37 CFR 1.114, then the action can be made final.

Accordingly, it is not persuasive that the final Office action issued May 10, 2011 was premature and the finality of the Office action will not be withdrawn.

DECISION

The petition is **DENIED**.

Any new or renewed petition must be filed within TWO MONTHS of the mail date of this decision.

Should there be any questions about this decision please contact 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.

Remy Yucel
Director, Technology Center 1600

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/406,705	04/19/2006	Jeffrey James Vanderbilt	070178-051	6244

70471 7590 09/08/2011
PHAN LAW GROUP PLLC
P.O. BOX 748
ALEXANDRIA, VA 22313-0748

EXAMINER
KOSACK, JOSEPH R

ART UNIT	PAPER NUMBER
1626	

MAIL DATE	DELIVERY MODE
09/08/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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P.O. BOX 748
ALEXANDRIA VA 22313-0748

: PETITION DECISION

In re Application of:
Vanderbilt et al.
Serial No.: 11/406,705
Filed: April 19, 2006
Attorney Docket No.: **070178-051**

This is in response to the renewed petition under 37 CFR § 1.181, filed August 30, 2011, requesting that the finality of the Office action of May 10, 2011 be withdrawn.

BACKGROUND

Relevant parts of the prosecution history are summarized below.

The examiner mailed a final Office action on February 23, 2010 setting a three month shortened statutory period for reply. In this Office action, claims 1-8, 11 and 13-15 were pending and were rejected. Specifically, claims 1-8, 11 and 13-15 were rejected under 35 U.S.C. 103(a) as being unpatentable over Liu in view of Sukhadia et al. and Knudsen et al.

On May 18, 2010, applicants filed a Notice of Appeal.

On July 13, 2010, applicants filed an Appeal Brief.

The examiner mailed an Examiner's Answer to applicants on October 4, 2010.

Applicants filed a Request for Continued Examination (RCE) with amendments to the claims on November 29, 2010.

The examiner mailed a final Office action on May 10, 2011 setting a three month shortened statutory period for reply. In this Office action, claims 1-8, 11 and 13-19 were pending and were rejected. Specifically, claims 1-8, 11 and 13-19 were rejected under 35 U.S.C. 103(a) as being unpatentable over Liu in view of Sukhadia et al. and Knudsen et al.

Applicants filed a petition under 37 CFR § 1.181 on July 7, 2011, requesting that the finality of the Office action of May 10, 2011 be withdrawn.

On August 5, 2011, a decision was mailed denying the petition to withdraw finality.

Applicants filed a renewed petition under 37 CFR § 1.181 on August 30, 2011, requesting reconsideration of that decision.

DISCUSSION

The renewed petition and the file history have been carefully considered.

Specifically, it has been noted that claims 16-19 were newly presented with the filing of applicants' RCE, which claims had not been previously rejected. As a result, the rejection of May 10, 2011 should not have been made final due to the presence of these new claims. It is further noted the Office action of May 10, 2011 does not address the limitations of the new dependent claims in its 35 USC 103 rejection. Accordingly, the final Office action issued May 10, 2011 was premature and the finality of the Office action will be withdrawn.

DECISION

The petition is **GRANTED**.

The Office action mailed May 10, 2011 is hereby vacated to the extent that it was made "final" and the Office action is now considered to be a non-final Office action. Any amendment filed in a timely manner will be entered.

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.

Remy Yucel
Director, Technology Center 1600

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OFFICE OF PETITIONS

In re Application of :
Curt Hendrix :
Application No. 11/406,953 : Letter
Filed: April 18, 2006 :
Attorney Docket No. 85379-265738 :

This is a reply to the communication, filed October 7, 2010, requesting that the requirements of 37 CFR 1.48(a) be waived or suspended pursuant to 37 CFR 1.183.

The petition is **dismissed**.

As a third party to an *ex parte* proceeding, petitioner is not in a position to demand that the USPTO act as requested unless specifically authorized by statute or regulation. In particular, neither the patent statute nor its implementing regulation confer a right upon a third party to intervene on the matters raised in the petition. Information submitted to the Office regarding a patent that is not in reexamination must be consistent with 35 USC § 301, 37 CFR §§ 1.322 or 1.501, and/or the standards discussed in MPEP § 2207. The actions requested by the third party here are not specifically authorized by statute or regulation, and the communication is not a proper submission under 35 USC § 301, 37 CFR §§ 1.322 or 1.501, and/or the standards discussed in MPEP § 2207. Since petitioner lacks standing, the Office will not act as requested.

In addition, the Office's refusal to act on petitioner's requests is consistent with well-established case law for third party filings. See, Hallmark Cards Inc. v. Lehman, 959 F.Supp. 539, 42 USPQ2d 1134 (D.D.C. 1997) (third party lacked jurisdiction and standing to challenge USPTO's issuance of a Certificate of Correction); Hitachi Metals Ltd. v. Quigg, 776 F.Supp 3, 20 USPQ2d 1920, (Fed. Cir. 1989) (third party lacked jurisdiction and standing to overturn USPTO decision to grant a reissue patent); Syntex v. United States Patent and Trademark Office, 882 F.2d 1570, 11 USPQ2d 1866, (Fed. Cir. 1989) (third party requester lacked standing to overturn USPTO decision to issue a reexamination certificate); The Boeing Company v. Commissioner of Patents and Trademarks, 853 F.2d 878, 7 USPQ2d 1487 (Fed. Cir. 1988) (third party requester lacked standing to intervene in district court proceeding stemming from USPTO reexamination decision).

The third party communications filed October 7, 2010 will not be made of record in the file of the above cited application. Accordingly, the third party communications filed October 7, 2010 will be closed in the Office's Image File Wrapper (IFW) records for the above identified application.

The petition fees paid by the third party petitioner are refunded.

There is no prohibition to petitioner filing her own patent application for the same subject matter as set forth in the above identified application. Petitioner may then request interference proceedings between her application and the instant application. Petitioner is directed to MPEP2300.

This application is being forwarded to Technology Center Art Unit 1628 for such action as may be appropriate.

Telephone inquiries regarding this communication should be directed to Carl Friedman at (571) 272-6842.

David Bucci
Petitions Examiner
Office of Petitions

Cc: Carlos A. Fisher
4 Venture, Suite 300
Irvine, CA 92618

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In re Application of	:	
Rohini BHANGLEY et al.	:	
Application No. 11/406,968	:	DECISION ON PETITION
Filed: April 19, 2006	:	
Attorney Docket No. 2005-0382	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 25, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, April 10, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on July 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 an amendment, (2) the petition fee of $1,620.00, and (3) a proper statement of unintentional delay. Accordingly, the reply to the non-final Office action of April 10, 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 2464 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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ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

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OFFICE OF PETITIONS

In re Application of	:	
Dennis Briggs, et al.	:	
Application No. 11/406,988	:	DECISION GRANTING PETITION
Filed: April 19, 2006	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. THR5008 USDIV2	:	

This is a decision on the renewed 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 16, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Since the $810 Request for Continued Examination was previously submitted, the RCE fee submitted with the petition on October 5, 2010 is considered a duplicate fee and deemed unnecessary and will be refunded to petitioners deposit account.

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.

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

This application is being referred to Technology Center AU 3748 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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Sterne, Kessler, Goldstein & Fox P.L.L.C
1100 New York Avenue, N.W.
Washington DC 20005

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In re Application of	:	
William Barclay	:	
Application No. 11/406,995	:	DECISION ON PETITION
Filed: April 18, 2006	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No.	:	
2715.017000T/JUK/CMB	:	

This is a decision on the Petition to Accept an Unintentionally Delayed Claim Under 37 C.F.R. §1.78(a)(3), filed October 3, 2011, to accept an unintentionally delayed deletion of a previously filed claim for benefit under 35 U.S.C. § 120, as set forth in the concurrently filed supplemental application data sheet.

The petition is **DISMISSED** as inappropriate.

The filing of a petition under 37 CFR 1.78(a)(3) is inappropriate to delete a benefit claim. No petition is necessary to delete a benefit claim. In this regard, petitioner's attention is directed to MPEP § 201.11(G), under the subheading Deleting Benefit Claims, which states:

> The examiner should consider whether any new prior art may now be available if a benefit claim is deleted. If an applicant is submitting an amendment to the specification or an ADS to delete a benefit claim after final rejection or action, the amendment or ADS will be treated under 37 CFR 1.116 (see MPEP § 714.12 and § 714.13). If the amendment or ADS to delete a benefit claim is submitted after the application has been allowed, the amendment or ADS will be treated under 37 CFR 1.312 (see § MPEP 714.16).

Accordingly, the petition under 37 CFR 1.78(a)(3) is dismissed as inappropriate.

In view of the above, the surcharge fee submitted with the petition is unnecessary and will be refunded to petitioner's deposit account in due course.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3219. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center AU 1651 for consideration by the examiner of the request for continued examination (RCE) and amendment, and appropriate action on the supplemental application data sheet requesting deletion of the benefit claim filed October 3, 2011.

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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PEPPER HAMILTON LLP
400 BERWYN PARK
899 CASSATT ROAD
BERWYN PA 19312-1183

MAILED

JUN 17 2011

OFFICE OF PETITIONS

In re Patent No. 7,375,207 :
Issued: May 20, 2008 :
Application No. 11/407,027 : ON PETITION
Filed: April 18, 2006 :
Attorney Docket Number: 133087.03821 :
(A1573-3P US) :

This is a decision on the petition, filed April 12, 2011, under 37 CFR 3.81(b)[1] to correct the assignee information on the front of the Patent.

The petition is **DISMISSED**.

Petitioner states that the correct assignee information is **NATIONAL RESEARCH COUNCIL OF CANADA (OTTAWA, CA)** and that the PTOL-85(b) inadvertently listed the assignee information incorrectly. Accordingly, petitioner requests that a certificate of correction be issued to reflect the correct assignee information on the front page of the Letters Patent.

The instant request however was not submitted with a certificate of correction (PTO/SB/44) as required by 37 CFR 1.323 (and fee) and since no authorizations for debiting a deposit account for any deficiencies have been granted, the required fees have not been paid and thus the petition is not grantable.

Any request for reconsideration should be filed within **TWO MONTHS** of the date of this decision in order to be considered timely. This time period may not be extended pursuant to 37 CFR 1.136. The application will be retained in the Office of Petitions for **TWO (2) MONTHS** to await petitioner's reply to this decision.

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
Office of Petitions

Telephone inquiries regarding 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] *See* Official Gazette of June 22, 2004

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AUG 22 2011

OFFICE OF PETITIONS

In re Patent No. 7,375,207 :
Issued: May 20, 2008 :
Application No. 11/407,027 : ON PETITION
Filed: April 18, 2006 :
Attorney Docket Number: 133087.03821 :
(A1573-3P US)

This is a decision on the "REQUEST FOR RECONSIDERATION AND RESPONSE UNDER 37 CFR §3.81(b)"[1], filed August 17, 2011, to correct the assignee information on the front of the Patent.

The petition is **GRANTED**.

Petitioner states that the correct assignee information is **NATIONAL RESEARCH COUNCIL OF CANADA (OTTAWA, CA)** and that the PTOL-85(b) inadvertently listed the assignee information incorrectly. Accordingly, petitioner requests that a certificate of correction be issued to reflect the correct assignee information on the front page of the Letters Patent.

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

The request is accompanied by a certificate of correction (and fee) as required by 3.81(b). Further, Office assignment records reflect that **NATIONAL RESEARCH**

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[1] *See* Official Gazette of June 22, 2004

COUNCIL OF CANADA (OTTAWA, CA) is the assignee of record and that it should have been listed as **NATIONAL RESEARCH COUNCIL OF CANADA (OTTAWA, CA)**. Accordingly, as the request complies with the provisions of 37 CFR 3.81(b), it would be appropriate for a certificate of correction to issue.

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3212. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

This matter is being referred to the Certificates of Correction Branch for issuance of a certificate of correction.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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ROYLANCE ABRAMS BERDO &
GOODMAN LLP
1300 19TH STREET NW
SUITE 600
WASHINGTON, DC 20036

MAILED

SEP 2 0 2010

OFFICE OF PETITIONS

In re Application of	:	
Jun, et al.	:	
Application No. 11/407,071	:	ON REQUEST FOR
Filed: April 20, 2006	:	RECONSIDERATION OF
Attorney Docket Number: 50402	:	PATENT TERM ADJUSTMENT

This is a decision on the petition under 37 CFR 1.705(b), filed May 14, 2010. Applicants believe that they should be accorded an additional PTA of 280 days. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

Insofar as the instant application for patent term adjustment requests reconsideration of the patent term adjustment solely as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file a request for reconsideration of patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

Lastly, it is noted that Applicants ignored the 2 days of Applicant delay accorded pursuant to 37 CFR 1.704(b). The Office mailed a non-final Office action on November 20, 2009. Applicants filed a reply on February 22, 2010. The reply was made timely for purposes of avoiding abandonment by the fact that February 20, 2010 fell on a Saturday. See 37 CFR 1.7(a). However, the actual receipt date of correspondence is used in a patent term adjustment calculation. See MPEP 2731. Accordingly, Applicants were properly assessed 2 days of delay.

In view thereof, the correct determination of PTA prior to issuance is **eight hundred eighty-two (882) days** (884 days of PTO delay, reduced by 2 days of Applicant delay).

The $200.00 fee set forth in 37 CFR 1.18(e) has been charged to Deposit Account No. 18-2220, 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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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PORTLAND INTELLECTUAL
PROPERTY, LLC
900 SW FIFTH AVENUE/STE. 1820
PORTLAND OR 97204

MAILED

AUG 17 2010

OFFICE OF PETITIONS

In re Application of :
Stager :
Application No. 11/407,113 :
Filed: 0 April, 2006 :
Attorney Docket No. P 0555.16145 :

DECISION

This is a decision on the petition filed on 21 June, 2010, to revive an application pursuant to 37 C.F.R. §1.137(b) as having been abandoned due to unintentional delay.

The petition pursuant to 37 C.F.R. §1.137(b) is **GRANTED**.

As to the Allegations
of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement and/or showing of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee.

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the Notice of Allowance/Allowability and Fees Due mailed on 11 January, 2010, with reply due under a non-extendable deadline on or before Monday, 12 April, 2010.

The application went abandoned by operation of law after midnight 12 April, 2010.

The Office mailed the Notice of Abandonment on 3 June, 2010.

On 19 April, 2010, Petitioner filed, inter alia, corrected drawings and fees due

On 21 June, 2010, Petitioner filed, *inter alia*, a petition with fee pursuant to 37 C.F.R. §1.137(b), a reply in the form of fees due (pointing to the fees formerly submitted), and made the statement of unintentional delay.

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.

It appears that the requirements under the rule have been satisfied.

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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.

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.

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: 8074-1146	Patent Number: 7,663,207
Filing Date (or 371(b) or (f) Date): 20-Apr-2006	Issue Date: 16-Feb-2010
First Named Inventor: FURUMIYA, Masayuki	
Title: SEMICONDUCTOR 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 10, 2010
Name (Print/Typed) Benoit Castel	Registration Number 35041

***Note**: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required in accordance with 37 CFR 1.33 and 11.18. Please see 37 CFR 1.4(d) for the form of the signature. If necessary, submit multiple forms for more than one signature, see below**.*

☑ *Total of 1 forms are submitted.

The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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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YOUNG & THOMPSON
209 Madison Street
Suite 500
Alexandria, VA 22314

Mail Date: 08/16/2010

Applicant	: Kuniko Kikuta	: DECISION ON REQUEST FOR
Patent Number	: 7663207	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/407,323	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/20/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **774** 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

KF ROSS PC
311 EAST YORK STREET
SAVANNAH GA 31401

MAILED
NOV 17 2011
OFFICE OF PETITIONS

In re Patent No. 7,401,445	:	
Issue Date: July 22, 2008	:	
Application No. 11/407,405	:	NOTICE
Filed: April 19, 2006	:	
Attorney Docket No. 23589	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to Diane Goodwyn at (571) 272-6735.

Thurman K. Page
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Williams Family Law Firm, L.L.C.
P.O. Box 15
Natchitoches LA 71457

MAILED
NOV 15 2010
OFFICE OF PETITIONS

In re Application of
Thompson et al.
Application No. 11/407,565
Filed: April 19, 2006
For: AQUEOUS WILDLIFE ATTRACTANT, COVER SCENT, AND BROWSE SUPPLEMENT

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 17, 2010, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The petition has **not** been reviewed on the merits because the petition has not been properly signed.

In this regard, petitioner's attention is directed to 37 CFR 1.33(b), which states.

> (b) Amendments and other papers. Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:
>
> (1) A registered patent attorney or patent agent of record appointed in compliance with § 1.32(b);
>
> (2) A registered patent attorney or patent agent not of record who acts in a representative capacity under the provisions of § 1.34;
>
> (3) An assignee as provided for under §3.71(b) of this chapter; or
>
> (4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

Applicant Bobby Slaydon, Jr. is the only person who has signed the petition. The petition has not been signed by all of the applicants. To the extent applicant Gardner purports to be the assignee of this application the requirements of 37 CFR 3.71 and 3.73(b) have not been met.

It is noted the address presented on the petition differs from the correspondence address of record. While a courtesy copy of this decision is being mailed to the person signing the present petition, all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary. The Office will not engage in dual correspondence. To the extent petitioner is no longer represented by attorneys of record, revocation of power of attorney and a change of address should be submitted.

It is further noted that a petition under 37 CFR 1.137(b) also requires that a response to the restriction requirement is submitted upon renewed petition.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3215.

Charlema Grant
Petitions Attorney
Office of Petitions

Enclosure: courtesy copy of August 10, 2009 restriction requirement and PTO/SB/81

Cc: Bobby Slaydon, Jr.
591 Shady Hill Rd.
Florien, LA 71429

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.
11/407,565	04/19/2006	Ralph Thompson	05-021	7535

7590 08/10/2009
Williams Family Law Firm, L.L.C.
P.O. Box 15
Natchitoches, LA 71457

EXAMINER
ALSTRUM ACEVEDO, JAMES HENRY

ART UNIT	PAPER NUMBER
1616	

MAIL DATE	DELIVERY MODE
08/10/2009	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.

Office Action Summary	Application No.	Applicant(s)	
	11/407,565	THOMPSON ET AL.	
	Examiner	**Art Unit**	
	JAMES H. ALSTRUM ACEVEDO	1616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) 1-18 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☐ Claim(s) _____ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☒ Claim(s) 1-18 are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

Claims 1-18 are pending.

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 1-6, drawn to a composition, classified in class 514, subclass 502.

II. Claims 7-8, drawn to a method of attracting wildlife, classified in class 424, subclass 405.

III. Claims 9-10, drawn to a method of covering a scent, classified in class 424, subclass 406.

IV. Claims 11-12, drawn to a method of supplementing wildlife feed source, classified in class 426, subclass 53.

V. Claims 13-18, drawn to a process of preparing a composition, classified in class 426, subclass 1 or 48.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and (II-IV) are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product. See MPEP § 806.05(h). In the instant case the product can be used as a human nutritional supplement. Furthermore, Groups II-IV evidence that the composition of Group I has independent and distinct uses.

Inventions II-V are directed to related processes (i.e. utilizing similar compositions [Groups II-IV] or making a composition). The related inventions are distinct if: (1) the inventions as claimed are either not capable of use together or can have a materially different design, mode of operation, function, or effect; (2) the inventions do not overlap in scope, i.e., are mutually exclusive; and (3) the inventions as claimed are not obvious variants. See MPEP § 806.05(j). In the instant case, the inventions as claimed have materially different design, functions, and effects (e.g. attracting wildlife or covering scent). Furthermore, the inventions as claimed do not encompass overlapping subject matter and there is nothing of record to show them to be obvious variants.

Inventions I and II are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make another and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case the process as claimed can be used to make a vitamin fortified vanilla flan (i.e. a custard dessert). Alternatively, the product can be made by a materially different product, such as by extracting sodium chloride and carbohydrate from kelp and adding vanilla and other nutritional supplements.

Restriction for examination purposes as indicated is proper because all these inventions listed in this action are independent or distinct for the reasons given above <u>and</u> there would be a serious search and examination burden if restriction were not required because one or more of the following reasons apply:

(a) the inventions have acquired a separate status in the art in view of their different classification;

(b) the inventions have acquired a separate status in the art due to their recognized divergent subject matter;

(c) the inventions require a different field of search (for example, searching different classes/subclasses or electronic resources, or employing different search queries);

(d) the prior art applicable to one invention would not likely be applicable to another invention;

(e) the inventions are likely to raise different non-prior art issues under 35 U.S.C. 101 and/or 35 U.S.C. 112, first paragraph.

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a invention to be examined even though the requirement may be traversed (37 CFR 1.143) **and (ii) identification of the claims encompassing the elected invention**.

The election of an invention may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse. Traversal must be presented at the time of election in order to be considered timely. Failure to timely traverse the requirement will result in the loss of right to petition under 37 CFR 1.144. If claims are added after the election, applicant must indicate which of these claims are readable on the elected invention.

If claims are added after the election, applicant must indicate which of these claims are readable upon the elected invention.

Should applicant traverse on the ground that the inventions are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

No call is necessary when the restriction requirement is considered to be complex or the Examiner has a reasonable expectation from prior experience that a phone election will not be made. MPEP § 812.01.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

The examiner has required restriction between product and process claims. Where applicant elects claims directed to the product, and the product claims are subsequently found allowable, withdrawn process claims that depend from or otherwise require all the limitations of the allowable product claim will be considered for rejoinder. All claims directed to a nonelected process invention must require all the limitations of an allowable product claim for that process invention to be rejoined.

In the event of rejoinder, the requirement for restriction between the product claims and the rejoined process claims will be withdrawn, and the rejoined process claims will be fully examined for patentability in accordance with 37 CFR 1.104. Thus, to be allowable, the rejoined claims must meet all criteria for patentability including the requirements of 35 U.S.C. 101, 102, 103 and 112. Until all claims to the elected product are found allowable, an otherwise proper restriction requirement between product claims and process claims may be maintained. Withdrawn process claims that are not commensurate in scope with an allowable product claim will not be rejoined. See MPEP § 821.04(b). Additionally, in order to retain the right to rejoinder in accordance with the above policy, applicant is advised that the process claims should be amended during prosecution to require the limitations of the product claims. **Failure to do so may result in a loss of the right to rejoinder**. Further, note that the prohibition against double

patenting rejections of 35 U.S.C. 121 does not apply where the restriction requirement is withdrawn by the examiner before the patent issues. See MPEP § 804.01.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James H. Alstrum-Acevedo whose telephone number is (571) 272-5548. The examiner can normally be reached on M-F, ~10:00-6:00 and Saturdays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Johann Richter can be reached on (571) 272-0646. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/James H Alstrum-Acevedo/
Patent Examiner, Art Unit 1616
Technology Center 1600

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Rodney B. Jordon
700 N. Nolan Trace
Florien LA 71429

MAILED

JUN 02 2011

OFFICE OF PETITIONS

In re Application of :
Thompson et al. :
Application No. 11/407,565 : DECISION ON PETITION
Filed: April 19, 2006 :
Attorney Dkt. No. 05-021 :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed April 14, 2011, to revive the above-identified application.

The petition under 37 CFR 1.137(b) is **GRANTED**.

This above-identified application became abandoned for failure to timely file a reply to a restriction requirement mailed August 10, 2009. The Office Action set a one (1) 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 11, 2009. A Notice of Abandonment was mailed on March 25, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a reply to the restriction requirement (2) the petition fee of $810.00, and (3) a statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3215.

This application is being referred to Technology Center AU 1616 for appropriate action by the Examiner in the normal course of business on the reply received

/Charlema Grant/
Charlema Grant
Petitions Attorney
Office of Petitions

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KIRKPATRICK & LOCKHART, PRESTON, GATES, ELLIS, LLP
(FORMERLY KIRKPATRICK & LOCKHART NICHOLSON GRAHAM)
STATE STREET FINANCIAL CENTER
ONE LINCOLN STREET
BOSTON, MA 02111-2950

MAILED

OCT 21 2010

OFFICE OF PETITIONS

In re Application of	:	
Carl J. Mahle, Jr. et al.	:	
Application No. 11/407,580	:	DECISION ON PETITION
Filed: April 20, 2006	:	TO WITHDRAW
Attorney Docket No. 0308566.0100	:	FROM RECORD
	:	

This is a decision on the renewed Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b), filed August 13, 2007.

The request is **NOT APPROVED**.

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).

Accordingly, the request cannot be approved because practitioners were appointed by customer number. Practitioners must withdraw in the same manner that they were appointed.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary

evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

Attachments : blank Request for Withdrawal As Attorney or Agent and Change of Correspondence Address & a blank Statement Under 37 CFR 3.73(b)

cc: FUSION TELECOMMUNICATIONS
INTERNATIONAL, INC.
420 LEXINGTON AVENUE
SUITE 1718
NEW YORK, NY 10170

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COMMISSIONER FOR PATENTS
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Paper No.

PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

MAILED

AUG 04 2010

OFFICE OF PETITIONS

In re Application of :
Player et al. :
Application No. 11/407,605 : ON APPLICATION FOR
Filed: April 20, 2006 : PATENT TERM ADJUSTMENT
Atty Docket No. TDP5006USCIP3 :

This is in response to the APPLICATIONS FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. 1.705(b) WITHIN THREE MONTHS OF RECEIPT OF THE NOTICE OF ALLOWANCE filed May 10, 2010. Applicant submits that the correct patent term adjustment to be indicated on the patent is at least one thousand one hundred forty-two (1142) days, not six hundred forty-four (644) 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

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MAILED

AUG 30 2010

OFFICE OF PETITIONS

In re Application of	:	
Alan J. BLUMBERG	:	
Application No. 11/407,619	:	DECISION ON PETITION
Filed: April 20, 2006	:	TO WITHDRAW
Attorney Docket No. 088500/00001A	:	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 29, 2010.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

Michael B. Pallay has been withdrawn, all other attorneys will remain of record in this application.

The correspondence address of record remains the same, all correspondence from the Office will continue to be forwarded to the above-identified address until otherwise properly notified.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

/dcg/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

cc: MICHAEL B. PALLAY
P.O. BOX 2190
CLARKSBURG, WV 26302

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222 EAST 41ST ST
NEW YORK NY 10017

MAILED
DEC 13 2011
OFFICE OF PETITIONS

In re Patent No. 7,298,187 :
Issued: November 20, 2007 :
Application No. 11/407,682 :
Filed: April 19, 2006 :
Attorney Docket Number: 012371-0008-999 :

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed November 2, 2011 and November 3, 2011.

On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

It is not apparent whether the person signing the request was ever given a power of attorney or authorization of agent regarding this patent. In accordance with 37 CFR 1.34(a), the signature appearing on the request shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts. While, a courtesy copy of this decision is being mailed to the address given on the petition, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Kendal M. Sheets
CPA Global
2318 Mill Road, Suite 12 Floor
Alexandria, VA 22314

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Paper No.

MINTZ, LEVIN, COHN, FERRIS,
GLOVSKY AND POPEO, P.C
ONE FINANCIAL CENTER
BOSTON MA 02111

MAILED

DEC 06 2010

OFFICE OF PETITIONS

In re Application of	:	
Barraclough et al.	:	DECISION ON
Application No. 11/407,697	:	PETITION
Filed: April 20, 2006	:	
Attorney Docket No. 39700-813F01US/NC64337US	:	

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) filed September 28, 2010.

The petition is **GRANTED**.

The above-identified application was abandoned for failure to timely file a proper reply to the final Office action mailed November 5, 2009. 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 February 6, 2010. The filing of the instant petition precedes the mailing of a courtesy Notice of Abandonment.

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.

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 was submitted subsequent to the maximum extendable period for reply, this fee is unnecessary and is being refunded.

Technology Center AU 2464 has been advised of this decision. The application is, thereby, forwarded to the examiner for consideration of the RCE and submission submitted on September 28, 2010.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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STRASBURGER & PRICE, LLP
ATTN: IP SECTION
1401 MCKINNEY
SUITE 2200
HOUSTON TX 77010

MAILED

AUG 2 6 2010

OFFICE OF PETITIONS

In re Application of	:	
Risto Siliqi et al.	:	
Application No. 11/407,743	:	DECISION ON PETITION
Filed: April 19, 2006	:	
Attorney Docket No. 21525.0116	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 22, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before June 21, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed March 19, 2010. Accordingly, the date of abandonment of this application is June 22, 2010. A Notice of Abandonment was mailed on July 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 payment of the issue fee of $1,510 and the publication fee of $300, (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay. Accordingly, the issue and publication fees are accepted as being unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to the Office of Data Management for further processing into a patent.

/Kimberly A. Inabinet/

Kimberly A. Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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RICHARD L. MARSH
4116 E. LATOKA
SPRINGFIELD MO 65809

MAILED

SEP 30 2010

OFFICE OF PETITIONS

In re Application of	:	
Rati M. Patel et al.	:	
Application No. 11/407,812	:	DECISION ON PETITION
Filed: April 20, 2006	:	
Attorney Docket No. 20529	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 23, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue fee on or before April 27, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed January 27, 2010. Accordingly, the date of abandonment of this application is April 27, 2010. A Notice of Abandonment was mailed May 13, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $755, (2) the petition fee of $810, and (3) a proper statement of unintentional delay. Accordingly, the issue and publication fees are accepted as being unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to the Office of Data Management for further processing into a patent.

/Kimberly A. Inabinet/

Kimberly A. Inabinet
Petitions Examiner
Office of Petitions

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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ERNEST D. BUFF
ERNEST D. BUFF AND ASSOCIATES, LLC.
231 SOMERVILLE ROAD
BEDMINSTER NJ 07921

MAILED

SEP 03 2010

OFFICE OF PETITIONS

In re Application of	:	
Charles Christopher Botti	:	
Application No. 11/407,826	:	DECISION ON PETITION
Filed: April 20, 2006	:	
Attorney Docket No. 0249-1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 13, 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 April 10, 2009, which set a shortened statutory period for reply of one (1) month or (30) thirty days. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on May 11, 2009. A Notice of Abandonment was mailed on January 12, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $810 and (3) a proper statement of unintentional delay. Accordingly, the amendment is accepted as being unintentionally delayed.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Since the statement contained in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the petition is being construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained 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 3634 for appropriate action by the Examiner in the normal course of business on the reply received July 13, 2010.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

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P.O. Box 1450
Alexandria, VA 22313-1450
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LeClairRyan
70 Linden Oaks
Suite 210
Rochester NY 14625

MAILED

MAR 09 2012

OFFICE OF PETITIONS

In re Application of	:	
Chakrabarti, et al.	:	
Application No. 11/407,906	:	DECISION ON PETITION
Filed: April 21, 2006	:	UNDER 37 CFR 1.55(c)
Attorney Docket No. 042144-6	:	

This is a decision on the renewed petition, filed February 28, 2012, under 37 CFR 1.55(c) to accept an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for benefit of priority to the filing date of Indian Patent Application No. 1923/CHE/2005, filed December 26, 2005.

The petition is **DISMISSED**.

This application was filed after November 29, 2000, and did not include a reference to the foreign application, for which benefit is now sought, within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior foreign application. Since the claim for priority is submitted after the period specified in 37 CFR 1.55(a)(1)(i), this is an appropriate petition under the provisions of 37 CFR 1.55(c).

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;
(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date, and be included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6));
(3) the surcharge as set forth in 37 CFR 1.17(t);
(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional (the Director may require additional information where there is a question whether the delay was unintentional); and

(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

Examiner Swartz has indicated that the proposed amendment to claim priority raises new issues that would require further consideration and/or search. Since a final Office action was mailed on February 15, 2012, the Office requires the submission of a Request for Continued Examination (RCE) as a pre-condition for acceptance of the late claim for priority.

If reconsideration of this decision is desired, a renewed petition under 37 CFR § 1.55(c) and a RCE accompanied by the $930.00. large entity fee are required.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

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) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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www.uspto.gov

GREENBLUM & BERNSTEIN, P.L.C.
1950 ROLAND CLARKE PLACE
RESTON VA 20191

MAILED
JUN 30 2011
OFFICE OF PETITIONS

In re Patent No. 7,849,651 :
Issue Date: December 14, 2010 :
Application No. 11/407,911 : ON PETITION
Filed: April 21, 2006 :
Attorney Docket No. **P29794** :

This is a decision on the petition filed June 14, 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 JoAnne Burke at (571) 272-4584. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

As authorized, the $130 fee for the petition under 37 CFR 3.81(b) has been assessed to petitioner's deposit account.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

JoAnne Burke
Petitions Examiner
Office of Petitions

---

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 06-21-11

TO SPE OF : ART UNIT 3633

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/407911 Patent No.: 7849651

CofC mailroom date: 06-14-11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Note: See Foreign Pat. Docs

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.

- [x] **Approved** — All changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments:

SPE Art Unit 3633

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.
11/408,056	04/21/2006	Lasse Leino	OHMAN-006-A	8224

32954 7590 11/19/2010
JAMES C. LYDON
100 DAINGERFIELD ROAD
SUITE 100
ALEXANDRIA, VA 22314

EXAMINER
WEBB, WALTER E

ART UNIT	PAPER NUMBER
1612	

MAIL DATE	DELIVERY MODE
11/19/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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NOV 1 9 2010

JAMES C. LYDON
100 DAINGERFIELD ROAD
SUITE 100
ALEXANDRIA VA 22314

In re Application of:	:
Leino et al.	:
Serial No.: 11/408,056	: PETITION DECISION
Filed: April 21, 2006	:
Attorney Docket No.: **OHMAN-006-A**	:

This is in response to the petition under 37 CFR § 1.181, filed October 8, 2010, requesting that the finality of the Office action of September 30, 2010 be withdrawn and a new Office action issued.

BACKGROUND

More recently, the examiner mailed a final Office action on May 11, 2010 setting a three month statutory limit for reply. The examiner noted that claims 13, 17 and 20-24 were pending and claims 13, 17 and 20-24 were rejected. Claims 13, 17 and 20-22 were rejected under 35 USC 103 (a) as being unpatentable over Williams et al. in view of Mohammad et al. and now Roberts et al. Claims 23 and 24 were rejected under 35 USC 103 (a) as being unpatentable over Goodman et al. in view of Rubinfeld and further in view of Mohammad et al and Roberts et al. The provisional rejection of claims 13, 17 and 20-23 over co-pending application 10/534,988 was maintained.

On September 13, 2010, applicants filed on RCE with an amendment to claim 24 and remarks.

On September 30, 2010, the examiner mailed a final Office action setting a three month statutory limit for reply. The examiner noted that claims 13, 17 and 20-24 were pending and claims 13, 17 and 20-24 were rejected. Claims 13, 17 and 20-22 were again rejected under 35 USC 103 (a) as being unpatentable over Williams et al. in view of Mohammad et al. and now Roberts et al. Claims 23 and 24 remained rejected under 35 USC 103 (a) as being unpatentable over Goodman et al. in view of Rubinfeld and further in view of Mohammad et al and Roberts et al. The provisional rejection of claims 13, 17 and 20-23 over co-pending application 10/534,988 was maintained.

On October 8, 2010, applicants submitted the petition under consideration herein.

DISCUSSION

The petition and the file history have been carefully considered.

Applicants argue that the examiner should vacate the second final Office action and issue a new Official Action which addresses applicants' arguments regarding Fig. 3 of Roberts et al. Specifically, applicants argue "The proper interpretation of Fig. 3 is critical to both obviousness rejections in this application. The Patent Office cited Fig. 3 to justify its obviousness rejections; the Applicants have argued Fig. 3 does not support either rejection. MPEP § 707.07(f) requires an examiner to provide clear explanations of all actions taken by the examiner during prosecution of an application. Where, as here, the applicant traverses a rejection, the examiner must take note of the applicant's argument and answer the substance of it if he repeats the rejection. Yet the Patent Office has not addressed the Applicants' argument regarding Fig. 3. The Second Final Rejection does not provide any explanation why Applicants' argument regarding Fig. 3 was not persuasive."

Applicants' arguments are found persuasive that the final Office action of September 30, 2010 did not address applicants' arguments regarding Figure 3 of Roberts et al. Accordingly, the final Office action of September 30, 2010 is considered improper and will be withdrawn.

DECISION

The petition is **GRANTED**.

The final Office action of September 30, 2010 is hereby vacated. The application is being returned to the examiner to issue a new and complete final Office action with a reset period for reply which completely addresses the arguments set forth by applicants in the response of September 13, 2010.

Should there be any questions about this decision please contact Quality Assurance Specialist 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.

Remy Yucel
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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Patent No. : 8086056 B2
Application No.: 11/408058
Inventor(s) : Kenji Yamane, et al.
Issued : December 27, 2011
Attorney Docket No.: 09812.0710

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this matter, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1. 17(i) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: 571-273-0025
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Tasneem Siddiqui
For Mary Diggs (Supervisor)
Decisions & Certificates of Correction Branch
(703) **756-1593** or (703) 756-1814
Date: 02/13/2012

Address: David W. Hill
Finnegan, Henderson, Farabow,
Garrett & Dunner, L.L.P.
901 New York Avenue, NW
Washington, D.C. 20001-4413

/ts

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FISH & RICHARDSON P.C.
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

MAILED

AUG 23 2010

OFFICE OF PETITIONS

In re Application of	:	
Gianfranco D'amato	:	
Application No. 11/408,203	:	DECISION GRANTING PETITION
Filed: April 21, 2006	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 27514-0011002	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, August 20, 2010 to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on July 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 3782 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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CONNORS ASSOCIATES
1600 DOVE ST
SUITE 220
NEWPORT BEACH, CA 92660

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DEC 28 2010

OFFICE OF PETITIONS

In re Application of Koptis	:	
Application No. 11/408,266	:	Decision on Petition
Filing Date: April 20, 2006	:	
Attorney Docket No. 9448c	:	

This is a decision on the petition under 37 CFR 1.137(b) filed July 26, 2010, which requests revival of the instant application.

The petition is **granted**.

The application became abandoned for failure to submit corrected drawings in a timely manner in reply to the Notice of Allowability mailed February 1, 2010, which set a period for reply of three (3) months. The application became abandoned on Tuesday, May 4, 2010. A Notice of Abandonment was mailed on May 18, 2010.

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,
(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) A terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

Petitioner has submitted a reply to the Notice of Allowability in the form of corrected drawings. Petitioner has submitted the required petition fee of $810. Petitioner has stated 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 has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

The Office of Data Management, Patent Publication Branch, 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

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FOLEY & LARDNER LLP
111 HUNTINGTON AVENUE
26TH FLOOR
BOSTON MA 02199-7610

MAILED

FEB 09 2011

OFFICE OF PETITIONS

In re Application of	:	
ROLLERT, et al	:	
Application No. 11/408,316	:	DECISION ON PETITION
Filed: April 21, 2006	:	TO WITHDRAW
Attorney Docket No. 073106-0101	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) filed January 6, 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, if the change of address is to that of an assignee, the assignee has not been properly made of record. In this regard, to be made of record the assignee of the entire interest must be made of record pursuant to 37 CFR 3.71, which 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."

37 CFR 3.73(b) states:

"In order to request or take action in a patent or trademark matter, the assignee must establish its ownership of the patent or trademark property of paragraph (a) of this section to the satisfaction of the Director. The establishment of ownership by the assignee may be combined with the paper that requests or takes the action. Ownership is established by submitting to the Office a signed statement identifying the assignee, accompanied by either:

(i) Documentary evidence of a chain of title from the original owner to the assignee (e.g., copy of an executed assignment). For trademark matters only, the documents submitted to establish ownership may be required to be recorded pursuant to § 3.11 in the assignment records of the Office as a condition to permitting the assignee to take action in a matter pending before the Office. For patent matters only, the

submission of the documentary evidence must be accompanied by 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)."

Please see the attached Form SB/96 – Statement Under 37 CFR 3.73(b).

Further, the request cannot be approved because the attorneys of record were not appointed through use of Customer Number 48329, as indicated.

All future communications from the Office will continue to be directed to the above-identified address until otherwise properly notified.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-6735.

/Diane C. Goodwyn/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

cc: GLENN LAW
WASHINGTON HARBOUR
3000 K STREET, SUITE 600
WASHINGTON DC 20007-5143

cc: SPOTSCOUT, INC.
C/O BURNS & LEVINSON,
12 SUMMER STREET
BOSTON, MA 02110

Attachment: Statement Under 37 CFR 3.73(b)

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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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	:	
ROLLERT, et al	:	
Application No. 11/408,316	:	DECISION ON PETITION
Filed: April 21, 2006	:	TO WITHDRAW
Attorney Docket No. 073106-0101	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) filed February 15, 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 Glenn Law on behalf of the attorneys of record associated with Customer No. 27433.

The attorneys of record associated with Customer No. 27433 have 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.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-6735.

/Diane C. Goodwyn/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

cc: SPOTSCOUT, INC.
C/O BURNS & LEVINSON,
12 SUMMER STREET
BOSTON, MA 02110

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
11/408,316	04/21/2006	Andrew Rollert	073106-0101

CONFIRMATION NO. 8488

POWER OF ATTORNEY NOTICE

48329
FOLEY & LARDNER LLP
111 HUNTINGTON AVENUE
26TH FLOOR
BOSTON, MA 02199-7610

OC000000046212335

Date Mailed: 02/25/2011

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/15/2011.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/dcgoodwyn/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

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.
11/408,403	04/21/2006	Kapil Jain	ADOBB174	9709

61222 7590 02/07/2011
VAN PELT, YI & JAMES LLP AND ADOBE SYS. INCORP.
10050 N. FOOTHILL BLVD.
SUITE 200
CUPERTINO, CA 95014

EXAMINER
PAN, YONGJIA

ART UNIT	PAPER NUMBER
2173	

NOTIFICATION DATE	DELIVERY MODE
02/07/2011	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

usptocorrespondence@ip-patent.com

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VAN PELT, YI & JAMES LLP AND ADOBE SYS. INCORP.
10050 N. FOOTHILL BLVD.
SUITE 200
CUPERTINO CA 95014

In re Application of:
JAIN, Kapil et al.
Application No. 11/408,403
Filed: April 21, 2006
For: **VISUAL CUE DISCERNMENT ON SCATTERED DATA**

DECISION ON PETITION UNDER 37 C.F.R. § 1.84(a)(2) TO ACCEPT COLOR DRAWINGS

This is a decision on the petition under 37 C.F.R. § 1.84(a)(2), filed on April 21, 2006, requesting acceptance of color drawings.

The petition requests that the color drawings of Figures 1 and 4-13 be accepted in lieu of black and white drawings.

A grantable petition under 37 C.F.R. § 1.84(a)(2) must be accompanied by a fee set forth under 37 C.F.R. § 1.17(h), 3 (three) sets of the color drawings in question, and the specification must contain, or be amended to contain, the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings:

"The patent or application file contains at least one drawing executed in color. Copies of this patent or patent application publication with color drawings will be provided by the U.S. Patent and Trademark Office upon request and payment of the necessary fee."

The petition was filed with the required fee and was filed with three (3) copies of color drawings of Figures 1 and 4-13. Paragraph [0003] of the specification contains the required notification described above.

Accordingly, the petition is **GRANTED**.

Any inquiry regarding this decision should be directed to Eddie C. Lee at (571) 272-1732.

/Eddie C. Lee/

Eddie C. Lee
Quality Assurance Specialist, TC 2100

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Decision Date : August 25,2011

In re Application of :

Stephen Terry

DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 11408415

Filed : 21-Apr-2006

Attorney Docket No : ITC-2-1051.01.US

This is an electronic decision on the petition under 37 CFR 1.313(c)(2), filed August 25,2011 , to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid in this application cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.

Telephone inquiries concerning this decision should be directed to the Patent Electronic Business Center (EBC) at 866-217-9197.

This application file is being referred to Technology Center AU 2617 for processing of the request for continuing examination under 37 CFR 1.114 .

Office of Petitions

Doc Code: PET.AUTO Document Description: Petition automatically granted by EFS-Web	PTO/SB/140 U.S. Patent and Trademark Office Department of Commerce

Electronic Petition Request	**PETITION TO WITHDRAW AN APPLICATION FROM ISSUE AFTER PAYMENT OF THE ISSUE FEE UNDER 37 CFR 1.313(c)**
Application Number	11408415
Filing Date	21-Apr-2006
First Named Inventor	Stephen Terry
Art Unit	2617
Examiner Name	JAIME HOLLIDAY
Attorney Docket Number	ITC-2-1051.01.US
Title	MAC MULTIPLEXING AND TFC SELECTION PROCEDURE FOR ENHANCED UPLINK

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	/Joseph P. Boos/
Name	Joseph P. Boos
Registration Number	62745

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GUERRY LEONARD GRUNE
784 S VILLIER CT.
VIRGINIA BEACH VA 23452

MAILED

NOV 01 2010

OFFICE OF PETITIONS

In re Application of	:	
Charles A. Glew	:	
Application No. 11/408,452	:	DECISION ON PETITION
Filed: April 21, 2006	:	
Attorney Docket No. CCG-011	:	

This is a decision on the petition under 37 CFR 1.182, filed, October 7, 2010, to obtain duplicate Letters Patent.

The petition is **DISMISSED**.

Duplicate Letters Patent may be obtained where the original is not received from the USPTO. However, where the original Letters Patent are received but subsequently lost, duplicate Letters Patent may not be obtained. As the original Letters Patent were received from the USPTO in this instance, a petition under 37 CFR 1.182 to obtain duplicate Letters Patent cannot be granted.

A certified copy of the patent may be purchased through the USPTO Website or by calling the Office of Document Services at 571-272-3150 or 800-972-6382.

Further correspondence with respect to this matter should be delivered through one of the following mediums:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

By Internet: EFS-Web[1]

Any questions concerning this matter may be directed to Terri Johnson at (571) 272-2991.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

[1] www.uspto.gov/ebc/efs_help.html (for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/408,455	04/21/2006	Cheng Qian	05US0012	9421

22471 7590 04/19/2012
Michael C. Schiffer - Legal Dept.
BECKMAN COULTER, INC.
250 S. Kraemer Boulevard
BREA, CA 92821

EXAMINER
MARTELLO, EDWARD

ART UNIT	PAPER NUMBER
2628	

NOTIFICATION DATE	DELIVERY MODE
04/19/2012	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentadministrationfullerton@Beckman.com
Maria.Rodriguez@Beckman.com

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April 18, 2012

Michael C. Schiffer - Legal Dept.
BECKMAN COULTER, INC.
250 S. Kraemer Boulevard
BREA CA 92821

In re Application of	:	
Cheng Qian et al.	:	**DECISION ON PETITION**
Application No. 11408455	:	
Filed: 04/21/2006	:	***ACCEPTANCE OF COLOR***
Attorney Docket No. **05US0012**	:	***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) April 21, 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 inquiries 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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AT&T LEGAL DEPARTMENT - GMG
ATTN: PATENT DOCKETING
ROOM 2A-207
ONE AT&T WAY
BEDMINSTER NJ 07921

MAILED

JAN 07 2011

OFFICE OF PETITIONS

In re Application of	:	
Phillips et al.	:	DECISION ON PETITION
Application No. 11/408,495	:	TO WITHDRAW
Filed: April 20, 2006	:	FROM RECORD
Attorney Docket No. 2219 (7785-523)	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 3, 2010.

The request is **NOT APPROVED**.

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. For example, 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) was 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.

In the instant application, the practitioners were appointed via Customer Number. However, the Customer Number provided on the request does not match the Customer Number in the USPTO system. Further, the person signing the request is not listed as an attorney of record. Therefore, the request cannot be approved at this time.

Further, 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. According to USTPO Assignment Records, "SBC Knowledge Ventures, L.P." is no longer the name of the current assignee.

All future communications from the Office will be directed to above-listed address until otherwise properly notified by the applicant or a proper change of correspondence address have been submitted.

There is an outstanding Office action mailed October 25, 2010 which requires a reply.

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

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JAMES W. MILLER, ATTORNEY
527 MARQUETTE AVENUE
SUITE 1960, RAND TOWER
MINNEAPOLIS MN 55402

MAILED

OCT 06 2011

OFFICE OF PETITIONS

NOTICE

In re Patent No. 7,438,300 :
Issue Date: October 21, 2008 :
Application No. 11/408,597 :
Filed: April 21, 2006 :
Attorney Docket No. 133.1.4/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

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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UC Berkeley - OTL
Bozicevic, Field & Francis LLP
1900 University Avenue, Suite 200
East Palo Alto, CA 94303

Mail Date: 09/14/2010

Applicant	: Eliana Saxon	: DECISION ON REQUEST FOR
Patent Number	: 7667012	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/408,605	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/20/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **647** 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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Townsend and Townsend and Crew LLP/Metabox, Inc
(016325)
Two Embarcadero Center, 8th Floor
San Francisco CA 94111

MAILED
DEC 12 2011
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In re Application of	:	
Daugs, et al.	:	
Application No. 11/408,609	:	ON PETITION
Filed: April 20, 2006	:	
Attorney Docket No. **016325-020310US**		

This is a decision on the petition under 37 CFR 1.137(b), filed November 22, 2011, to revive the above-identified application.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The above-identified application became abandoned August 26, 2010, for failure to file a proper reply to the final Office action mailed May 25, 2010, which set a shortened statutory period for reply of three (3) months from its mailing date. A Notice of Abandonment was mailed December 7, 2010.

The Request for Continued Examination (RCE) and amendment filed November 22, 2011, are noted.

The fee for a Request for Continued Examination under 37 CFR 1.114 is $930.00 for a large entity and $465.00 for a large entity. The required fee did not accompany the RCE, however; petitioner paid $635.00 for an extension of time under 37 CFR 1.136(a) within the third month. The extension of time cannot be granted as the request was made outside the maximum statutory period for reply to the final Office action. The fee for the RCE will be taken from the monies remitted for the extension of time. The remaining amount of $170.00 will be refunded, in due course.

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.

In re Application No. 11/408,609

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 to the address of currently of record until such time as appropriate instructions are received to the contrary.

The application file is being forwarded to Technology Center, GAU 1625 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

Cc:
Sam L. Nguyen
Hamilton Desanctis & Cha, LLP
3239 El Camino Real
Suite 220
Palo Alto, CA 94306

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F. CHAU & ASSOCIATES, LLC
130 WOODBURY ROAD
WOODBURY, NY 11797

MAILED
JUL 25 2011
OFFICE OF PETITIONS

In re Application of	:	
Baek-Woon Lee	:	
Application No. 11/408,676	:	DECISION GRANTING PETITION
Filed: April 21, 2006	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 8071-275T (PLG)	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed July 22, 2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on July 1, 2011 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries 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

[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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PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P.O. BOX 3001
BRIARCLIFF MANOR, NY 10510

In re Application of
Michael Wood, et al.
Application No. 11/408,682
Filed: April 20, 2006
Attorney Docket No. 013923US4

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 20, 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 April 28, 2010, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on July 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 a Request for Continued Examination (RCE) and fee of $810, and the submission required by 37 CFR 1.114; (2) the petition fee of $1620; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 3766 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

April M. Wise
Petitions Examiner
Office of Petitions

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OCT 25 2011
OFFICE OF PETITIONS

Fish & Richardson PC
P.O. Box 1022
Minneapolis MN 55440

In re Patent of Khouri et al.	:
Patent No. 8,000,456	: DECISION ON REQUEST FOR
Issue Date: August 16, 2011	: RECONSIDERATION OF
Application No. 11/408,697	: PATENT TERM ADJUSTMENT
Filed: April 20, 2006	:
Attorney Docket No.	:
26310-0164001	:

This is a decision on the petition filed on Monday, October 17, 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 two hundred forty-four (1244) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED TO THE EXTENT INDICATED HEREIN**.

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of one thousand ninety-nine (1099) days.

BACKGROUND

On August 16, 2011, the above-identified application matured into U.S. Patent No. 8,000,456, with a revised patent term adjustment of 1043 days. On Monday, October 17, 2011, patentees timely submitted this request for reconsideration of patent term adjustment (with required fee), asserting that the correct number of days of Patent Term Adjustment is 1244 days. Patentees assert the Office incorrectly calculated Office delay

pursuant to 37 CFR 1.702(b). Patentees contend 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, Patentees argue that (after the filing of the request for continued examination) the Office mailed a Notice of Allowance on March 25, 2011, thereby closing examination of the application on that date. Thus, Patentees argue no continued examination took place during the 145 day period from March 25, 2011 2011 (the mailing date of the Notice of Allowance) until August 16, 2011 (the date the patent was issued). As such, Patentees maintain that the "B delay" should include the 145 days and be increased from 344 to 489 days.

In addition, Patentees dispute the length of a reduction pursuant to 37 CFR 1.704(c)(10) for a Rule 312 amendment filed on June 14, 2011, after the notice of allowance was mailed on March 25, 2011. Patentees argue the reduction should run begin on June 14, 2011 and end on June 21, 2011 and be 8 days, rather than the 64 days presently entered.

Patentees conclude that the correct patent term adjustment is 1244 days (the sum of 857 days of "A delay" and 489 days of "B delay" minus 94 days of overlap minus 8 days of Applicant delay).

RELEVANT STATUTE AND REGULATIONS WITH RESPECT TO B DELAY ARUGMENT

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

Patentees' arguments with respect to the B delay calculation 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 344 days based on the application having been filed under 35 U.S.C. 111(a) on April 20, 2006 and the patent not having issued as of the day after the three year date, April 21, 2009, and a request for continued examination under 132(b) having been filed on March 31, 2010. In other words, the 145 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. Patentees do not dispute that time consumed by continued examination of an application under 35 U.S.C. 132(b) is properly excluded and that the calculation of the excluded period begins on the date of filing of the request for continued examination. At issue is what further processing or examination beyond the date of filing of the request for continued examination is 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

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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.

excluded period begins with the filing of the request for continued examination and ends with the issuance of the patent.

Patentees' argument that the period of time after the issuance of a notice of allowance on a request for continued examination is not "any time consumed by continued examination requested by the applicant under section 132(b)" within the meaning of 35 U.S.C. 154(b)(1)(B)(i) is not availing. This limitation is not supported by the statutory language. Garcia v. United States, 469 U.S. 70, 75 (1984) ("only the most extraordinary showing of contrary intentions from [legislative history] would justify a limitation on the 'plain meaning' of the statutory language"). BP Am. Prod. Co. v. Burton, 549 U.S. 84, 91 (2006) ("Unless otherwise defined, statutory terms are generally interpreted in accordance with their ordinary meaning"). The statute provides for a guarantee of no more than 3-year application pendency, by providing for an adjustment in the patent term:

First, "Subject to the limitations of paragraph (2)," means that the limitations of paragraph 2 apply to this paragraph's adjustment of patent term. That is, the day-to-day extension of patent term for pendency beyond the 3 year period is restricted as follows: 1) "B delay" cannot accrue for days of "A delay" that overlap, 2) the patent term cannot be extended beyond disclaimed term, and 3) the period of adjustment, including accrued "B delay," will be reduced for applicant delay.

Second, "if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States," meaning that the condition must first occur that the issuance of an original patent (35 U.S.C. 153), not merely the issuance of a notice of allowance, is delayed due to the Office's failure to issue a patent (sign and record a patent grant in the name of the United States), not merely mail a notice of allowance, within 3 years after the actual filing date of the application in the United States. This provision gives the Office a three-year period to issue a patent (sign and record a patent grant in the name of the United States) after the application filing date before an adjustment will accrue for "B delay."

Third, "not including- (i) any time consumed by continued examination of the application requested by the applicant under section 132(b); (ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by

the Board of Patent Appeals and Interferences or by a Federal court; or (iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), meaning that the three-year period does not include "any time consumed by" or "any delay in processing," as specified in clauses (i)-(iii). This language correlates to 35 U.S.C. 154(b)(1)(A) which likewise provides the basis for determining the period given the Office to take the specified actions before an adjustment will accrue for "A delay" (e.g., extended for 1 day after the day after the period specified in clauses (i)-(iv)).

Furthermore, these clauses are interpreted using their ordinary meanings. Nonetheless, the context of the legislation should be considered. As stated in Wyeth v. Dudas, 580 F.Supp.2d 138 (D.D.C., September 30, 2008), because the clock for calculating the 20-year patent term begins to run on the filing date, and not on the day the patent is actually granted, some of the effective term of a patent is consumed by the time it takes to prosecute the application. To mitigate this effect, the statute, *inter alia*, grants adjustments of patent term whenever the patent prosecution takes more than three years, regardless of the reason. The time consumed by prosecution of the application includes every day the application is pending before the Office from the actual filing date of the application in the United States until the date of issuance of the patent. The time it takes to prosecute the application ends not with the mailing of the notice of allowance, but with the issuance of the patent.

Thus, not including "any time consumed by" means not including any days used to prosecute the application as specified in clauses (i)-(ii)[2]. Clause (i) specifies "any time consumed by continued examination of the application requested by the applicant under section 132(b)." Clause (ii) specifies "any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court." "Time" in the context of this legislation throughout refers to days. "Consumed by"

[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.

means used by or used in the course of. *Websters Collegiate Dictionary*, (11th ed.). The "any" signifies that the days consumed by are "any" of the days in the pendency of the application, and not just days that occur after the application has been pending for 3 years. As such, "any time consumed by" refers to any days used in the course of 1) continued examination of the application under section 132(b)(the filing of a request for continued examination), 2) interference proceedings, 3) secrecy orders, and 4) appellate review. Thus, that 3-year period given to the Office to issue a patent before an adjustment will accrue for "B delay" does not include any days used in the course of or any time consumed by clauses (i)-(ii), including any time consumed by the filing of a request for continued examination.

Fourth, "the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued" meaning that the consequence of this failure is that after "the end of that 3-year period" an additional 1 day of patent term will accrue for each day that the application is pending until the day the patent is issued.

The "time consumed by" or used in the course of the continued examination of the application requested by the applicant under section 132(b) does not end until issuance of the patent. 35 U.S.C. 132(b) was enacted under the same title, the "American Inventors Protection Act of 1999," as 35 U.S.C. 154(b). Section 4403 of the AIPA amended 35 U.S.C. § 132 to provide, at the request of the applicant, for continued examination of an application for a fee (request for continued examination or RCE practice), without requiring the applicant to file a continuing application under 37 CFR 1.53(b) or a continued prosecution application (CPA) under 37 CFR 1.53(d). Thus, clause (i) is different from clause (ii) in that clause (i) refers to an examination process whereas clause (ii) refers to time consumed by proceedings (interferences, secrecy orders and appeals) in an application.

By nature, the time used in the course of the examination process continues to issuance of the patent. The examination process involves examining the application to ascertain whether it appears that the applicant is entitled to a patent under the law. See 35 U.S.C. 131 ("[t]he Director shall cause an examination to be made of the application and the alleged new invention; and if on such examination it appears that the applicant is entitled to a patent under the law, the Director shall issue a patent therefor"). If on examination it appears

that the applicant is entitled to a patent, the USPTO issues a notice of allowance. See 35 U.S.C. 151 ("[i]f it appears that applicant is entitled to a patent under the law, a written notice of allowance of the application shall be given or mailed to the applicant"). If on examination it appears that the applicant is not entitled to a patent, the USPTO issues a notice (an Office action) stating the applicable rejection, objection, or other requirement, with the reasons therefor. See 35 U.S.C. 132 ("[w]henever, on examination, any claim for a patent is rejected, or any objection or requirement made, the Director shall notify the applicant thereof, stating the reasons for such rejection, or objection or requirement, together with such information and references as may be useful in judging of the propriety of continuing the prosecution of his application"). Neither the issuance of a notice of allowance nor the insurance of an Office action terminates the examination process. If after the issuance of an Office action under 35 U.S.C. 132 it subsequently appears that the applicant is entitled to a patent (e.g., in response to an argument or amendment by the applicant), the USPTO will issue a notice of allowance. Conversely, if after the issuance of a notice of allowance under 35 U.S.C. 151 it subsequently appears that the applicant is not entitled to a patent (e.g., in response to information provided by the applicant or uncovered by the USPTO), the USPTO will withdraw the application from issuance and issue an Office action under 35 U.S.C. 132 stating the applicable rejection, objection, or other requirement, with the reasons therefor.

As held in Blacklight Power, the USPTO's responsibility to issue a patent containing only patentable claims does not end with the issuance of a notice of allowance under 35 U.S.C. 151. See BlackLight Power, Inc. v. Rogan, 295 F.3d 1269, 1273 (Fed. Cir. 2002). Rather, if there is any substantial, reasonable ground within the knowledge or cognizance of the Director as to why an application should not issue, it is the USPTO's duty to refuse to issue the patent even if a notice of allowance has previously been issued for the application. See In re Drawbaugh, 9 App. D.C. 219, 240 (D.C. Cir 1896).

Moreover, the applicant continues to be engaged in the examination process after the mailing of the notice of allowance. 37 CFR 1.56 makes clear that the applicant has a duty to disclose information material to patentability as long as the application is pending before the USPTO (i.e., until a patent is granted or the application is abandoned). See 37 CFR 1.56(a) ("[t]he duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn

from consideration, or the application becomes abandoned"). 37 CFR 1.97 and 1.98 provide for the consideration of information submitted by the applicant after a notice of allowance has been mailed. See 37 CFR 1.97(d). In addition, 37 CFR 1.312 provides for the amendment of an application after a notice of allowance has been mailed. In fact, the request for examination procedures[3] permit the filing of a request for continued examination under 37 CFR 1.114 even after the issuance of a notice of allowance under 35 U.S.C. 151. See 37 CFR 1.114(a)(1).

As the examination process does not terminate with the mailing of the notice of allowance, the time consumed by continued examination requested by the applicant under section 132(b) does not terminate with the mailing of the notice of allowance. All the time the application is pending from the date of filing of the request for continued examination to the mailing of the notice of allowance through issuance of the patent is a consequence of the filing of the request for continued examination. Further action by the Office is pursuant to that request. Applicant has gotten further prosecution of the application without having to file a continuing application under 37 CFR 1.53(b).

All of the continued examination pursuant to the filing of the request by the applicant is properly excluded from the delay attributed to the Office. 35 U.S.C. 154(b)(1)(B)'s guarantee of a total application pendency of no more than three years provides for adjustment of the patent term for delay due to the Office's 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 31, 2010, and the patent issued by virtue of that request on August 16, 2011. Pursuant to 35 U.S.C. 154(b)(1)(B)(i), the period beginning on March 25, 2011 and ending on August 16, 2011 is not included in calculating Office delay.

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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.

Patentees are correct that the Office failed to properly calculate the reduction under 37 CFR 1.704(c)(1) associated with the filing of Rule 312 amendment on June 14, 2011.

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;

Applicants filed a Rule 312 amendment on June 14, 2011. The Office mailed a Response to the Rule 312 Communication on June 21, 2011. Accordingly, the reduction begins on June 14, 2011 and ends on June 21, 2011 and is 8, not 64 days. Accordingly, the reduction of 64 days is being removed and a reduction of 8 days is being entered..

CONCLUSION

In view thereof, the patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of one thousand ninety-nine (1099) days, which is 857 days of A delay + 344 days of B delay minus 94 overlapping days, minus 8 days of Applicant delay.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an

applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The Office acknowledges receipt of the required $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand ninety-nine (1099)** days.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 8,000,456 B2

DATED : **August 16, 2011** **DRAFT**

INVENTOR(S) : Khouri 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 1043 days

Delete the phrase "by 1043 days" and insert – by 1099 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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HARTFORD CT 06103

MAILED
MAY 20 2011
OFFICE OF PETITIONS

In re Patent No. 7,243,689 :
Issue Date: July 17, 2007 :
Application No. 11/408,704 : NOTICE
Filed: April 21, 2006 :
Attorney Docket No. 97818.00161 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 on February 23, 2011 and resubmitted on March 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) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Application of	:	
Rokbi et al.	:	DECISION ON APPLICATION
Application No. 11/408,729	:	FOR PATENT TERM ADJUSTMENT
Filed: April 21, 2006	:	
Docket No. 05-458-A	:	

This is a decision on the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(b), filed September 17, 2010. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from 270 days to 316 days.

The application for patent term adjustment is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the notice of allowance is **three hundred sixteen (316)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On June 21, 2010, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 270 days. On September 17, 2010, applicants timely submitted the instant application for patent term adjustment.[1]

Applicants assert there should be a 46 day adjustment entered in connection with the mailing of the Notice of Allowance on June 21, 2010. Applicants assert there Office delay, pursuant to 37

[1] Office finance records indicate that the issue fee payment was received on September 17, 2010.

CFR 1.702(a)(2), in taking action in response to the date on which a reply was filed.

Applicants' argument is well-taken. On January 6, 2010, applicants filed a response to the Quayle Action, mailed on November 12, 2009. A Notice of Allowance was mailed on June 21, 2010, which is four months and 46 days after applicants reply was filed. Accordingly, pursuant to 37 CFR 1.703(a)(2), a period of reduction of 46 days will be entered.

In view thereof, the determination of patent term adjustment at the time of mailing of the notice of allowance is three hundred sixteen **(316) days** (404 (358 + 46) days of Office delay - 88 days of Applicant delay).

The Office acknowledges receipt of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Applicants are reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicants will be notified of the revised patent term adjustment to be indicated on the patent in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

The Office of Data Management has been advised of this decision. This matter is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of updated PAIR Screen

Patent eBusiness

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- Fees
- Supplemental Resources & Support

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11/408,729 METHOD FOR THE PRODUCTION OF OVERPRODUCING STAPHYLOCOCCUS AUREUS STRAINS

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Patent Term Adjustment

Filing or 371(c) Date:	04-21-2006	Overlapping Days Between {A and B} or {A and C}:	0
Issue Date of Patent:	-	Non-Overlapping USPTO Delays:	358
A Delays:	358	PTO Manual Adjustments:	46
B Delays:	0	Applicant Delays:	88
C Delays:	0	Total PTA Adjustments:	316

Patent Term Adjustment History **Explanation Of Calculations**

Number	Date	Contents Description	PTO (Days)	APPL (Days)	Start
71	11-19-2010	Adjustment of PTA Calculation by PTO	46		0
64	06-21-2010	Mail Notice of Allowance			0
63	06-19-2010	Issue Revision Completed			0
62	06-19-2010	Document Verification			0
61	06-19-2010	Notice of Allowance Data Verification Completed			0
60	06-19-2010	Case Docketed to Examiner in GAU			0
59	06-17-2010	Notice of Allowability			0
55	11-12-2009	Mail Ex Parte Quayle Action (PTOL - 326)			0
54	11-09-2009	Ex Parte Quayle Action			0
53	10-27-2009	Date Forwarded to Examiner			0
52	10-26-2009	Amendment after Final Rejection			0
51	08-26-2009	Mail Final Rejection (PTOL - 326)			0
50	08-26-2009	Final Rejection			0
49	06-29-2009	Date Forwarded to Examiner			0
48	05-12-2009	Response after Non-Final Action		88	46
47	05-12-2009	Request for Extension of Time - Granted			0
46	11-13-2008	Mail Non-Final Rejection	155		43
45	10-14-2008	Non-Final Rejection			0
44	10-09-2008	Date Forwarded to Examiner			0
43	02-11-2008	Response to Election / Restriction Filed			0
42	10-09-2008	Mail Examiner Interview Summary (PTOL - 413)			0
41	10-09-2008	Mail of Withdraw of Informal Amendment Notice			0

40	10-09-2008	Withdraw of Informal Amendment Notice		0
39	04-24-2008	Examiner Interview Summary Record (PTOL - 413)		0
36	04-24-2008	Miscellaneous Incoming Letter		0
35	04-10-2008	Mail Notice of Informal or Non-Responsive Amendment		0
34	11-13-2006	Information Disclosure Statement considered		0
33	02-19-2007	Information Disclosure Statement considered		0
32	06-12-2007	Information Disclosure Statement considered		0
28	02-20-2008	Date Forwarded to Examiner		0
27.1	02-11-2008	Informal or Non-Responsive Amendment after Examiner Action		0
27	02-11-2008	Response to Election / Restriction Filed		0
26	01-10-2008	Mail Restriction Requirement	203	-1
25	01-07-2008	Requirement for Restriction / Election		0
23	06-12-2007	Electronic Information Disclosure Statement		0
22	06-12-2007	Information Disclosure Statement (IDS) Filed		0
21	03-20-2007	Case Docketed to Examiner in GAU		0
20.7	02-19-2007	Electronic Information Disclosure Statement		0
20	02-19-2007	Information Disclosure Statement (IDS) Filed		0
19	02-08-2007	PG-Pub Issue Notification		0
18.7	11-13-2006	Electronic Information Disclosure Statement		0
18	11-13-2006	Information Disclosure Statement (IDS) Filed		0
17	11-07-2006	IFW TSS Processing by Tech Center Complete		0
16	04-21-2006	Request for Foreign Priority (Priority Papers May Be Included)		0
15	10-31-2006	Receipt of all Acknowledgement Letters		0
14	10-31-2006	Receipt of Acknowledgment Letter		0
13	10-31-2006	Receipt of Acknowledgment Letter		0
12	07-26-2006	Receipt of Acknowledgment Letter		0
11	05-16-2006	Application Dispatched from OIPE		0
10	05-16-2006	Application Is Now Complete		0
9	05-05-2006	Agency Referral Letter Mailed		0
8	05-05-2006	Agency Referral Letter Mailed		0
7	05-05-2006	Agency Referral Letter Mailed		0
6	05-03-2006	Referred by L&R for Third-Level Security Review. Agency Referral Letter Generated		0
5	05-03-2006	Referred by L&R for Third-Level Security Review. Agency Referral Letter Generated		0
	05-03-	Referred by L&R for Third-Level Security Review.		

4	2006	Agency Referral Letter Generated	0
3	05-02-2006	Referred to Level 2 (LARS) by OIPE CSR	0
2	04-27-2006	IFW Scan & PACR Auto Security Review	0
1	04-21-2006	Initial Exam Team nn	0

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- *Call the Patent Electronic Business Center at (866) 217-9197 (toll free) or e-mail EBC@uspto.gov for specific questions about Patent Application Information Retrieval (PAIR).*
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OFFICE OF PETITIONS

MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP
300 S. WACKER DRIVE
32ND FLOOR
CHICAGO IL 60606

In re Patent of Rokbi, et al.	: DECISION ON REQUEST FOR
Patent No. 7,863,013	: RECONSIDERATION OF
Issue Date: January 4, 2011	: PATENT TERM ADJUSTMENT
Application No. 11/408,729	: AND NOTICE OF INTENT TO ISSUE
Filed: April 21, 2006	: CERTIFICATE OF CORRECTION
Atty. Docket No. 05-458-A	:

This is a decision on the petition filed February 16, 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 eight hundred ninety-three (893) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by eight hundred ninety-three (893) days is **GRANTED**.

The period of delay under 35 U.S.C. § 154(b)(1)(A) ("A Delay") is 404 days. The period of Applicant delay is 88 days. The period of delay under 35 U.S.C. § 154(b)(1)(B) ("B Delay") is 623 days, beginning on April 22, 2009, the day after three years after the application's filing date, and ending on January 4, 2011, the date of issuance of the patent. Patentees correctly point out that Office calculations fail to subtract the 46 day overlapping period of delay beginning on May 7, 2010 and ending on June 21, 2010 already accounted for under 35 U.S.C. § 154(b)(1)(A) ("A Delay").

Accordingly, the correct patent term adjustment is 893 days (404 days A Delay plus 623 days B Delay minus 46 overlapping days minus 88 days Applicant Delay).

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The 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 **eight hundred ninety-three (893)** 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 : 7,863,013 B2

DATED : **January 4, 2011** **DRAFT**

INVENTOR(S) : Rokbi 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 939 days

Delete the phrase "by 939 days" and insert – by 893 days--

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KNOBBE MARTENS OLSON & BEAR, LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

MAILED

AUG 09 2010

OFFICE OF PETITIONS

In re Application of :
Marc Mignard :
Application No. 11/408,753 : ON PETITION
Filed: April 21, 2006 :
Attorney Docket No. QCO.186A/050636

This is a decision on the petition, filed August 6, 2010 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 7, 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 2873 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).

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PATENT ADMINISTRATOR
NEAL, GERBER, & EISENBERG
SUITE 1700
2 NORTH LASALLE STREET
CHICAGO IL 60602

MAILED
SEP 28 2010
OFFICE OF PETITIONS

In re Patent No. 7,747,346
Issued: June 29, 2010
Application No. 11/408,789
Filing or 371(c) Date: April 21, 2006
Dkt. No.: AH-UTSC: 19638.02US2

: DECISION ON APPLICATION FOR
: PATENT TERM ADJUSTMENT

This is a decision on the application for patent term adjustment under 37 CFR 1.705(d) filed on August 30, 2010 requesting an increase in patent term adjustment from 158 days to 342 days.

The petition for reconsideration of the patent term adjustment of 721 days is **DISMISSED**.

The above-identified application matured into U.S. Patent No. 7,747,346 on June 29, 2010.The patent issued with a patent term adjustment of 158 days. The instant application for patent term adjustment was timely filed August 30, 2010. Patentees contest the adjustment under 37 CFR 1.703(b), or, the three year delay," of 193 days. Patentees assert that the adjustment for three year delay is 434 days.

Patentees' arguments have been carefully reviewed, but are not persuasive. The period of adjustment for over three year review does not include the time consumed by appeal.

37 CFR 1.703(b)(4) states:

> "The period of adjustment under § 1.702(b) is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the sum of the following periods: (4) The number of days, if any, in the period beginning on the date on which a notice of appeal to the Board of Patent Appeals and Interferences was filed under 35 U.S.C. 134 and § 41.31 of this title and ending on the date of the last decision by the Board of Patent Appeals and Interferences or by a Federal court in an appeal under 35 U.S.C. 141 or a civil action under 35 U.S.C. 145, or on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first, if the appeal did not result in a decision by the Board of Patent Appeals and Interferences."

Herein, a Notice of Appeal was filed October 28, 2008. A non-final Office action was thereafter filed on June 26, 2009. Thus, as a result of the filing of the Notice of Appeal on October 28, 2008, the three year delay period does not include the appeal period as prescribed by 37 CFR 1.703(b)(4). As the appeal did not result in a decision by the Board, but in the mailing of a non-final Office action, the three year period does not include the period of time from the Notice of Appeal to the mailing of the non-final Office action.

In view thereof, no adjustment to the patent term will be made.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

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MICROSOFT CORPORATION
ONE MICROSOFT WAY
REDMOND WA 98052

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JUL 25 2011

OFFICE OF PETITIONS

In re Application of	:	
Gursharan S. Sidhu et al	:	
Application No. 11/408,894	:	DECISION GRANTING PETITION
Filed: April 21, 2006	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 315737.01	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, July 25, 2011 to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 2, 2011 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2433 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).

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BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA, VA 22314-1176

Mail Date: 10/07/2010

Applicant	: Cheng-Yu Wu	: DECISION ON REQUEST FOR
Patent Number	: 7609300	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/408,990	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/24/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **526** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

Doc Code: PET.PTA.RCAL
Document Description: Request for Recalculation in view of Wyeth

PTO/SB/131 (01-10)
Approved for use through 02/28/2011. OMB 0651-0020
U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE
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: 056203.50977D1	Patent Number: 7,665,976
Filing Date (or 371(b) or (f) Date): April 24, 2006	Issue Date: February 23, 2010
First Named Inventor: Satoshi USUI	
Title: High Pressure Fuel Pump for Internal Combustion Engine	

PATENTEE HEREBY REQUESTS RECALCULATION OF THE PATENT TERM ADJUSTMENT (PTA) UNDER 35 USC 154(b) INDICATED ON THE ABOVE-IDENTIFIED PATENT. THE PATENTEE'S SOLE BASIS FOR REQUESTING THE RECALCULATION IS THE USPTO'S PRE-*WYETH* INTERPRETATION OF 35 U.S.C. 154(b)(2)(A).

Note: This form is only for requesting a recalculation of PTA for patents issued before March 2, 2010, if the sole basis for requesting the recalculation is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A). See Instruction Sheet on page 2 for more information.

Patentees are reminded that to preserve the right to review in the United States District Court for the District of Columbia of the USPTO's patent term adjustment determination, a patentee must ensure that he or she also takes the steps required under 35 U.S.C. 154(b)(3) and (b)(4) and 37 CFR 1.705 in a timely manner.

**Wyeth v. Kappos*, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).

Signature	Date August 3, 2010
Name (Print/Typed) James F. McKeown	Registration Number 25,406

***Note:** Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required in accordance with 37 CFR 1.33 and 11.18. Please see 37 CFR 1.4(d) for the form of the signature. If necessary, submit multiple forms for more than one signature, see below**.*

☒ *Total of 1 forms are submitted.

The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1 450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON, DC 20044-4300

Mail Date: 08/12/2010

Applicant	: Satoshi Usui	: DECISION ON REQUEST FOR
Patent Number	: 7665976	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/409,062	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/24/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **532** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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OFFICE OF PETITIONS

BANNER & WITCOFF, LTD.
1100 13th STREET, N.W.
SUITE 1200
WASHINGTON DC 20005-4051

In re Patent No. 7,592,653
Issued: September 22, 2009
Application No. 11/409,090
Filed: April 24, 2006
Dkt. No.: 006638.00027

: 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 May 21, 2010 requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by 266 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 266 days is **GRANTED**.

The Office acknowledges the previous submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Corrections Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **266** days.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,592,653

DATED : September 22, 2009 **DRAFT**

INVENTOR(S) : Sudo

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 386 days

Delete the phrase "by 386 days" and insert – by 266 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	11409128
Filing Date	21-Apr-2006
First Named Inventor	Mary Battle
Art Unit	3751
Examiner Name	KAREN YOUNKINS
Attorney Docket Number	1768-2
Title	Disposable collection device for human waste

◉ Please withdraw me as attorney or agent for the above identified patent application and all the practitioners of record.

The reason(s) for this request are those described in 37 CFR:

10.40(c)(1)(vi)

Certifications

☒ I/We have given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intend to withdraw from employment

☒ I/We have delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled

☒ I/We have notified the client of any responses that may be due and the time frame within which the client must respond

Change the correspondence address and direct all future correspondence to the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71:

Name	Mary Battle
Address	10 Oklahoma Avenue
City	Bayshore
State	NY
Postal Code	11706
Country	US

I am authorized to sign on behalf of myself and all withdrawing practitioners.	
Signature	/Daniel P. Burke/
Name	Daniel P. Burke
Registration Number	30735

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Decision Date : June 20,2011

In re Application of :

Mary Battle

Application No : 11409128

Filed: 21-Apr-2006

Attorney Docket No : 1768-2

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY/AGENT OF RECORD

This is an electronic decision on the Request to Withdraw as attorney or agent of record under 37 CFR.§ 1.36(b), filed June 20,2011

The request is **APPROVED**

The request was signed by Daniel P. Burke (registration no. 30735) on behalf of all the attorneys/agents of record. All attorneys/agents of record have been withdrawn.

Since there are no remaining attorneys of record, all future communications from the Office will be directed the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71 with correspondence address:

Name	Mary Battle
Name2	
Address 1	10 Oklahoma Avenue
Address 2	
City	Bayshore
State	NY
Postal Code	11706
Country	US

As a reminder, requester is required to inform the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71 of the electronically processed petition.

Telephone inquiries concerning this decision should be directed to the Patent Electronic Business Center (EBC) at 866-217-9197.

Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
www.uspto.gov

PROSKAUER ROSE LLP
ONE INTERNATIONAL PLACE
BOSTON, MA 02110

Mail Date: 08/02/2010

Applicant	: Yoji Kawamoto	: DECISION ON REQUEST FOR
Patent Number	: 7657285	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/409,210	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/24/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **255** 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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Decision Date : April 22,2011

In re Application of :

Duncan McCannel

DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 11409284

Filed : 20-Apr-2006

Attorney Docket No : 3729.75US02

This is an electronic decision on the petition under 37 CFR 1.313(c)(2), filed April 22,2011 , 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	11409284
Filing Date	20-Apr-2006
First Named Inventor	Duncan McCannel
Art Unit	2873
Examiner Name	BRANDI THOMAS
Attorney Docket Number	3729.75US02
Title	LENTICULAR CONTAINER AND METHOD OF MAKING

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	/Daidre L. Burgess/
Name	Daidre L. Burgess
Registration Number	60389

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED
MAY 13 2011
OFFICE OF PETITIONS

PATTERSON THUENTE CHRISTENSEN PEDERSEN PA
4800 IDS CENTER
80 SOUTH 8TH STREET
MINNEAPOLIS MN 55402-2100

In re Application of	:	
McCannel, et al.	:	DECISION ACCORDING STATUS
Application No. 11/409,284	:	UNDER 37 CFR 1.47(a)
Filed: April 20, 2006	:	AND GRANTING REQUEST
Attorney Docket No. 3729.75US02	:	UNDER 37 CFR 1.48(a)

This is in response to the petition under 37 CFR 1.47(a), and the request to correct inventorship pursuant to 37 CFR 1.48(a), both filed April 22, 2011.

The request under 37 CFR 1.48(a) is **GRANTED**.

The petition under 37 CFR 1.47(a) is **GRANTED**.

Petitioner has shown that the originally signing inventor Duncan McCannel has refused to execute the supplemental declaration which now identifies added inventor (pursuant to 37 CFR 1.48(a)) John Tomczyk.

Office records have been changed to reflect that John Tomczyk is an inventor in the above-identified application.

Receipt of the $130 fee for the request under 37 CFR 1.48 is acknowledged.

The $200 fee for the petition under 37 CFR 1.47 has been charged to Deposit Account No. 16-0631, as authorized.

The matter is being forwarded to Group Art Unit 2873 for consideration of the RCE, filed April 22, 2010.

Telephone inquiries related to this decision may be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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MBHB/TRADING TECHNOLOGIES
300 SOUTH WACKER DRIVE
SUITE 3200
CHICAGO IL 60606

MAILED
NOV 23 2010
OFFICE OF PETITIONS

In re Application of	:	
Alvin F. Tanpoco	:	DECISION ON APPLICATION
Application No. 11/409,346	:	FOR PATENT TERM ADJUSTMENT
Filed: April 21, 2006	:	
Attorney Docket No. 03-1117-A	:	

This is a decision on the "Application for Patent Term Adjustment Under 37 C.F.R. § 1.705(b)" filed May 27, 2010. Applicant requests the initial determination of patent term adjustment be corrected from two hundred seventy-nine (279) days to two hundred two (202) days.

The application for patent term adjustment is **dismissed**.

The Office mailed a Determination of Patent Term Adjustment under 35 U.S.C. § 154(b) on May 4, 2010, advising Applicant of a patent term adjustment of 279 days. In response, Applicant timely filed this application for patent term adjustment with payment of the issue fee on May 27, 2010.

Applicant filed a Notice of Appeal and a Pre-Appeal Brief Request for Review on April 6, 2009. The Office issued a Notice of Panel Decision from Pre-Appeal Brief Review on April 21, 2009. The panel decision indicated the "application remains under appeal because there is at least one actual issue for appeal." Applicant filed a request for continued examination ("RCE") on October 6, 2009, which was 3 months and 77 days after the Office issued the April 21, 2009 panel decision. Applicant asserts the Office should have entered a 77-day reduction in patent term adjustment for Applicant's delay in filing the RCE.

37 C.F.R. § 1.704(b) provides for a reduction when a party takes more than 3 months to respond to any notice or action by the Office making any rejection, objection, argument or other request. Specifically, 37 C.F.R. 3 1.704(b) states,

> [A]n 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....

The provisions of 37 C.F.R. § 1.704(b) do not normally result in a reduction in patent term adjustment as a result of an applicant's delay in the filing of an appeal brief (or RCE) because the time period to file the brief is set forth in 37 C.F.R. § 41.37(a)(1) instead of in a notice mailed to applicant. However, in this case, a notice was mailed to applicant. Specifically, on April 21, 2009, the Office mailed a Notice of Panel Decision from Pre-Appeal Brief Review stating the period of time to file a brief "will be reset to be one month from [the] mailing [date of] this decision, or the balance of the two-month period running from the receipt of the notice of appeal, whichever is greater."

The issue raised by Applicant in this case is:

> Will the filing of an appeal brief or RCE more than three months after the issuance of a Notice of Panel Decision from Pre-Appeal Brief Review result in a reduction in patent term adjustment under 37 C.F.R. § 1.704(b)?

The Office has determined a reduction in patent term adjustment is *not* appropriate as a result of an applicant filing an appeal brief or RCE more than three months after the date the Office issues a Notice of Panel Decision from Pre-Appeal Brief Review. Therefore, a reduction of 77 days will not be entered for any delay in the filing of the October 6, 2009 RCE.

In view of the prior discussion, the patent term adjustment at the time of mailing of the notice of allowance remains 279 days.

Submission of the $200.00 fee set forth in 37 C.F.R. § 1.18(e) is acknowledged.

Applicant is reminded any delays by the Office under 37 C.F.R. §§ 1.702(a)(4) and 1.702(b), and any applicant delay under 37 C.F.R. § 1.704(c)(10), will be calculated at the time of the issuance of the patent and Applicant will be notified of the revised patent term adjustment to be indicated on the patent in the Issue Notification letter mailed to Applicant approximately three weeks prior to issuance.

The Office of Data Management has been advised of this decision. This matter is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Steven Brantley at (571) 272-3203.

Anthony Knight
Director
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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Mr. Christopher John Rourk
Jackson Walker LLP
901 Main Street, Suite 6000
DALLAS TX 75202

MAILED
AUG 30 2010
OFFICE OF PETITIONS

In re Application of	:	
John M. Payne, et al.	:	
Application No. 11/409,396	:	DECISION GRANTING PETITION
Filed: April 21, 2006	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 014477.00010	:	

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 July 21, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Terri Johnson at (571) 272-2991.

This application is being referred to Technology Center AU 2454 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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 : 11/07/11

TO SPE OF : ART UNIT 2856

SUBJECT : Request for Certificate of Correction for Appl. No.: 11409469 Patent No.: 7185540

CofC mailroom date: 11/03/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580
You can fax the Directors/SPE response to 571-273-3421

Note: **Should the changes be made?**

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

☒ **Approved** — **All** changes apply.

☐ **Approved in Part** — Specify below which changes **do not** apply.

☐ **Denied** — State the reasons for denial below.

Comments: _____

HEZRON WILLIAMS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

Hezron E. Williams — 2856

SPE — **Art Unit**

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SMITH FROHWEIN TEMPEL GREENLEE BLAHA, LLC
Two Ravinia Drive
Suite 700
ATLANTA GA 30346

MAILED
NOV 08 2010
OFFICE OF PETITIONS

In re Application of	:	
Gregory S. Warren, et al.	:	
Application No. 11/409,493	:	DECISION ON PETITION
Filed: April 21, 2006	:	
Attorney Docket No. 09002.1012	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 11, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, February 19, 2010, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on May 20, 2010. The Notice of Abandonment was mailed September 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 an amendment, (2) the petition fee of $810, 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 $555 extension of time fee submitted with the petition on October 11, 2010 was subsequent to the maximum extendable period for reply, petitioner may request a refund of this fee by writing to the following address: Mail Stop 16, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450. A copy of this decision should accompany petitioner's request.

Telephone inquiries concerning this decision should be directed to Terri Johnson at (571) 272-2991.

This application is being referred to Technology Center AU 3691 for appropriate action by the Examiner in the normal course of business on the reply received.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SMITH RISLEY TEMPEL SANTOS LLC
Two Ravinia Drive
Suite 700
ATLANTA GA 30346

MAILED
MAR 02 2012
OFFICE OF PETITIONS

In re Application of
Warren et al.
Application No. 11/409,493
Filed: April 21, 2006
Attorney Docket No. 09002.1012

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 7, 2012, to revive the above-identified application.

The petition is **GRANTED**.

This above-identified application became abandoned for failure to timely file a reply to the non-final Office action mailed May 23, 2011. The non-final Office action set a three (3) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on August 24, 2011. A Notice of Abandonment was mailed on December 12, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment (2) the petition fee of $930.00, 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 3691 for appropriate action by the Examiner in the normal course of business on the reply received

Charlema Grant
Attorney Advisor
Office of Petitions

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FLYNN THIEL BOUTELL & TANIS, P.C.
2026 RAMBLING ROAD
KALAMAZOO MI 49008-1631

In re Application of Cook Application No. 11/409,528 Filed: August 14, 2006 Attorney Docket Number: 3255.P0001US Title: DARLAN'S MULTI SIZE ADJUSTABLE CASTINGS	DECISION ON PETITION PURSUANT TO 37 C.F.R. § 1.137(B)

This is a decision on the petition filed March 19, 2012, 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 for failure to reply within the meaning of 37 C.F.R § 1.113 in a timely manner to the final Office action mailed March 21, 2011, which set a shortened statutory period for reply of three months. An after-final amendment was received on May 20, 2011 and an advisory action was mailed on May 31, 2011. A three-month extension of time under the provisions of 37 C.F.R § 1.136(a) was submitted on June 23, 2011 which extended the period for response out to the maximum extendable period for response: midnight on September 21, 2011. Accordingly, the above-identified application became abandoned on September 22, 2011. On this same date, an amendment to the drawings was received. A notice of abandonment was mailed on September 28, 2011.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in 37 C.F.R. § 1.17(m);

(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

37 C.F.R. § 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 C.F.R. § 1.137(b) was unintentional. Since the statement contained in this petition varies from the language required by 37 C.F.R. § 1.137(b)(3), the statement contained in this petition is being construed as the statement required by 37 C.F.R. § 1.137(b)(3) and Petitioner must notify the Office if this is not a correct interpretation of the statement contained in this petition.

With this petition, Petitioner has submitted the petition fee and a statement that is being construed as the proper statement of unintentional delay. Petitioner has further indicated that a continuation-in-part application has been filed.

Office records confirm that continuation-in-part application no. 13/423,389 was filed on March 19, 2012.

The first three requirements of Rule 1.137(b) have been met. The fourth requirement of Rule 1.137(b) is not applicable, as a terminal disclaimer is not required.[1]

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-in-part application number 13/423,389.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[2] All other inquiries

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1 See Rule 1.137(d).
2 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is

concerning examination procedures should be directed to the Technology Center.

Paul Shanoski
Senior Attorney
Office of Petitions

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reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

Doc Code: PET.RELIEF
Document Description: Certification and Request for Japan Events Relief

PTO/SB/425 (03-11)

CERTIFICATION AND REQUEST FOR RELIEF DUE TO EVENTS OF MARCH 11, 2011, IN JAPAN (Page 1 of 2)

Nonprovisional Application Number or Control Number (if applicable): 11/409,551	Patent Number (if applicable):
First Named Inventor: Hideyuki ISOWA	Title of Invention: APPARATUS AND METHOD FOR PRINTING CORRUGATED CARDBOARD SHEETS

APPLICANT/PATENTEE/REEXAMINATION PARTY HEREBY CERTIFIES AND REQUESTS THE FOLLOWING FOR THE ABOVE-IDENTIFIED APPLICATION/PATENT/REEXAMINATION PROCEEDING.

1. FOR PATENT APPLICATIONS AND REEXAMINATION PROCEEDINGS PENDING IN THE USPTO AS OF MARCH 11, 2011, IN WHICH A COMMUNICATION FROM THE USPTO IS SOUGHT TO BE REMAILED:

   a. One or more inventors, an assignee, or a correspondence address (for the application/proceeding) is in an area of Japan affected by the earthquake and/or tsunami of March 11, 2011.

   b. A reply or response to an Office action (final, non-final, or other), a notice of allowance, or other Office notice (hereinafter collectively referred to as "Office communication") is outstanding.

   c. The statutory or non-statutory time period set for response has not yet expired.

   d. Withdrawal and reissuance of the Office communication is requested.

   e. It is acknowledged that if this request is not made within sufficient time so that withdrawal and reissuance of the Office communication occur prior to expiration of the statutory or non-statutory time period (as permitted to be extended under 37 CFR 1.136(a), or as extended under 37 CFR 1.550(c) or 1.956), this request may not be granted.

   f. The need for the reissuance of the Office communication was due to the effects of the earthquake and/or tsunami of March 11, 2011.

   g. This request is being sent via EFS-Web or by mail directed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

2. FOR PATENTEES WHO WERE UNABLE TO TIMELY PAY A PATENT MAINTENANCE FEE DURING THE SIX-MONTH GRACE PERIOD FOLLOWING THE WINDOW TO PAY THE MAINTENANCE FEE:

   a. The original window of time to pay the maintenance fee without the surcharge required by 37 CFR 1.20(h) expired on or after March 11, 2011.

   b. The delay in paying the fee was due to the effects of the earthquake and/or tsunami of March 11, 2011.

   c. The USPTO is requested to *sua sponte* waive the surcharge in 37 CFR 1.20(h) for paying a maintenance fee during the six-month grace period following the window to pay the maintenance fee.

   d. This request and payment of the maintenance fee during the six-month grace period following the window to pay the maintenance fee is being mailed to: Director of the United States Patent and Trademark Office, Attn: Maintenance Fee, 2051 Jamieson Avenue, Suite 300, Alexandria, VA 22314; or being transmitted via facsimile to: 571-273-6500.

CERTIFICATION AND REQUEST FOR RELIEF DUE TO EVENTS OF MARCH 11, 2011, IN JAPAN (Page 2 of 2)

3. FOR PATENTEES WHO NEED TO FILE A PETITION TO ACCEPT A DELAYED MAINTENANCE FEE PAYMENT UNDER 37 CFR 1.378(c):

   a. The maintenance fee payment was required to have been paid after March 10, 2011.

   b. A petition under 37 CFR 1.378(c) (using USPTO form PTO/SB/66 – Petition to Accept Unintentionally Delayed Payment of Maintenance Fee in an Expired Patent (37 CFR 1.378(c))) is being promptly filed accompanied by the applicable maintenance fee payment (but not the surcharge under 37 CFR 1.20(i)).

   c. The delay in payment of the maintenance fee was due to the effects of the earthquake and/or tsunami of March 11, 2011.

   d. The USPTO is requested to *sua sponte* waive the surcharge in 37 CFR 1.20(i) for accepting a delayed maintenance fee payment.

   e. It is acknowledged that the petition to accept a delayed maintenance fee payment under 37 CFR 1.378(c) must be filed by March 11, 2012, in order to be entitled to a waiver of the surcharge under 37 CFR 1.20(i).

   f. It is acknowledged that the petition to accept a delayed maintenance fee payment under 37 CFR 1.378(c) must be filed within twenty-four months from the expiration date of the patent. *See* 35 U.S.C 41(c).

   g. This request and the petition to accept a delayed maintenance fee payment under 37 CFR 1.378(c) is being submitted via EFS-Web or by mail directed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

4. FOR NONPROVISIONAL PATENT APPLICATIONS FILED WITHOUT AN EXECUTED OATH OR DECLARATION OR PAYMENT OF THE BASIC FILING FEE, SEARCH FEE, AND/OR EXAMINATION FEE:

   a. The nonprovisional patent application was filed on or after March 11, 2011, and prior to April 12, 2011.

   b. The late filing of the oath or declaration or the basic filing fee, search fee, or examination fee was due to the effects of the earthquake and/or tsunami of March 11, 2011.

   c. The USPTO is requested to *sua sponte* waive the surcharge set forth in 37 CFR 1.16(f) for the late filing of the oath or declaration or basic filing fee, search fee, and/or examination fee.

   d. This request, together with the executed oath or declaration or the basic filing fee, search fee, or examination fee, as well as the reply to the Notice to File Missing Parts, is being submitted via EFS-Web or by mail directed to Mail Stop Missing Parts, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Signature	Date 29.III.11
Name (Print/Typed) Sid Bennett, Reg. No. 53,981	Practitioner Registration Number 53,981

Note: *Signatures of all the inventors, § 1.41(b) applicants, or assignees of record of the entire interest or their representative(s), or reexamination requesters at the appeal stage are required in accordance with 37 CFR 1.33 and 11.18. Please see 37 CFR 1.4(d) for the form of the signature. If necessary, submit multiple forms for more than one signature, see below*.*

☐ *Total of _____ forms are submitted.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO IL 60610

MAILED
APR 04 2011
OFFICE OF PETITIONS

In re Application of :
Hideyuki ISOWA et al. :
Application No. 11/409,551 : DECISION ON PETITION
Filed: April 20, 2006 :
Attorney Docket No.: 13074-3 :

This is a decision on the request filed March 29, 2011, seeking relief under the provisions of an announcement by the Under Secretary and Director of the United States Patent and Trademark Office on March 17, 2011, http://www.uspto.gov/patents/announce/japan_relief_2011mar17.pdf, providing relief to inventors and patent owners in areas affected by the earthquake and resulting tsunami of March 11, 2011.

The request for relief is **GRANTED**.

In the above-identified application, an Office action was mailed on October 9, 2010. The instant petition was filed prior to the expiration of the period for reply and the certifications for granting of relief are considered to be met by the submission of the request.

Telephone inquires concerning this decision should be directed to Ramesh Krishnamurthy at 571-272-4914. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

This application is being referred to the Technology Center, Art Unit 2861 for re-mailing the Office action of October 6, 2010. The period for reply will run from the mailing date of the Office action.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

TUNG & ASSOCIATES / RANDY W. TUNG, ESQ.
838 W. LONG LAKE RD.
SUITE 120
BLOOMFIELD HILLS, MI 48302

MAILED
JAN 31 2011
OFFICE OF PETITIONS

In re Application of	:	
Mei-Ju Chen	:	
Application No. 11/409,584	:	DECISION ON PETITION
Filed: April 24, 2006	:	
Attorney Docket No. 13471-003	:	

This is a decision on the petition, filed June 21, 2010, captioned "Petition to Set Aside Abandonment under 37 CFR 1.137," which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision should be submitted within two (2) months from the mail date of this decision and be entitled "Renewed Petition to Withdraw the Holding of Abandonment under 37 CFR 1.181." *See* 37 CFR 1.181(f).

This application was held abandoned for failure to reply to the final Office action of November 5, 2009, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on June 11, 2010.

Petitioner requests to "set aside abandonment." While the petition does not explicitly set forth a basis for the requested withdrawal of the holding of abandonment, the arguments stated therein appear to suggest that a non-entry of the Power of Attorney filed November 20, 2008, by the Office resulted in the mailing of the final Office action to an address different from that associated with the Customer Number 61157. It is noted by the Office that the Power of Attorney or the Change of Address was not entered. However, by the timely response to the final Office action filed on February 2, 2010, it is clear that the petitioner was in receipt of the final Office action in question. The Office mailed an Advisory action on March 2, 2010, noting therein the reasons as to why the reply of February 2, 2010, did not place the instant application in condition for

allowance. While the applicant or petitioner may not have received a copy of the Advisory action, petitioner should note that evidence of non-receipt of an Office communication or action (e.g., Notice of Abandonment or and Advisory Action) other an that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment See Lorenz v. Finkl, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); Krahn v. Commissioner, 15 USPQ2d 1823, 1824 (E.D. Va 1990); In re Application of Fischer, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988).

The instant application was properly held abandoned for failure to timely file a proper reply to the final Office action of November 5, 2009. The application became abandoned by law on February 6, 2010. Accordingly, the instant petition to withdraw the holding of abandonment cannot be granted at this time.

The Power of Attorney filed on November 20, 2008, has been accepted and correspondence in this application will be mailed to Customer Number 61157 as provided by 37 CFR 1.33.

ALTERNATIVE VENUE

Petitioner is strongly encouraged to consider filing a petition under 37 CFR 1.137(b) to revive an unintentionally abandoned application instead of filing a renewed petition under 37 CFR 1.181 or a petition under 37 CFR 1.137(a).

A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

> (1) The reply required to the outstanding Office action or notice, unless previously filed. In nonprovisional utility application abandoned for failure to respond to a non-final Office action, the required reply may be met by filing either (A) an argument or amendment under 37 CFR 1.111 or (B) a continuing application under 37 CFR 1.53(b).
>
> (2) The petition fee as set forth in 37 CFR 1.17(m), **$810 for a small entity**;
>
> (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

A form for filing a petition to revive an unintentionally abandoned application accompanies this decision for petitioner's convenience. If petitioner desires to file a petition under 37 CFR 1.137(b) instead of filing a request for reconsideration, petitioner must complete the enclosed petition form (PTO/SB/64) and pay the $810 petition fee.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries related to this decision may be directed to the JoAnne Burke at (571) 272-4584.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

Enclosures: (1) Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b); Form PTO/SB/64, Privacy Act Statement

(2) Copy of the Advisory Action of March 2, 2010

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
11/409,584	04/24/2006	Mei-Ju Chen	13471-003

CONFIRMATION NO. 3025

POWER OF ATTORNEY NOTICE

80711
Brinks Hofer Gilson & Lione/Ann Arbor
524 South Main Street
Suite 200
Ann Arbor, MI 48104

OC000000045764323

Date Mailed: 01/31/2011

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/20/2008.

- 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).

/jlburke/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

Doc Code: PET.OP
Document Description: Petition for Review by the Office of Petitions

PTO/SB/64 (07-09)
Approved for use through 07/31/2012. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

Docket Number (Optional)

First named inventor: _____

Application No.: _____ Art Unit: _____

Filed: _____ Examiner: _____

Title:

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus any extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
(4) Statement that the entire delay was unintentional

1. Petition Fee

☐ Small entity-fee $ _____ (37 CFR 1.17(m)). Application claims small entity status. See 37 CFR 1.27.

☐ Other than small entity-fee $ _____ (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of _____ (identify type of reply):

☐ has been filed previously on _____.

☐ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of $ _____.

☐ has been paid previously on _____.

☐ is enclosed herewith.

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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

3. Terminal disclaimer with disclaimer fee

☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $_____for a small entity or $_____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

Signature	Date
Type or Printed name	Registration Number, If applicable
Address	Telephone Number
Address	

Enclosures:

☐ Fee Payment

☐ Reply

☐ Terminal Disclaimer Form

☐ Additional sheets containing statements establishing unintentional delay

☐ Other: _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

Date	Signature
	Typed or printed name of person signing certificate

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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.
11/409,584	04/24/2006	Mei-Ju Chen	13471-003	3025

80711 7590 03/02/2010
Brinks Hofer Gilson & Lione/Ann Arbor
524 South Main Street
Suite 200
Ann Arbor, MI 48104

EXAMINER
YENTRAPATI, AVINASH

ART UNIT	PAPER NUMBER
2624	

MAIL DATE	DELIVERY MODE
03/02/2010	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.

Advisory Action Before the Filing of an Appeal Brief	Application No. 11/409,584	Applicant(s) CHEN, MEI-JU	
	Examiner AVINASH YENTRAPATI	Art Unit 2624	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 02 February 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.
   NOTE: _____. (See 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: Applicant's arguments filed 2/2/2010 have been fully considered but they are not persuasive. Examiner maintains the rejections in the Final office action mailed on 11/05/2009. Applicants arguments are directed to differences between the prior art and the invention, but not necessarily to the claimed subject matter. Applicant's arguments are moot in terms of the claimed subject matter.

Applicant's Remarks: Applicant submits that the one key advantage obtained by the present invention is that the system is able to track objects in real-time and does not require an image buffer (See Remarks page 5 paragraph 2). Applicant further states that on the contrary, Ashok requires two line memory buffers.

Examiner's Response: Examiner respectfully considers the Applicants arguments, however the amended claims stand rejected. The claim language states that the invention comprises of register and image sensing elements. Furthermore, the claim language does not exclude an image buffer taught by Ashok. Therefore, the prior art reads on the claim.

Applicant's Remarks: Applicant submits that the 112 new matter rejection be withdrawn because "parallel processing" is supported in page 8, lines 19-23 in the specification. Applicant submits the following remarks on page 4:

"Upon determining the right end point 112b, 112b of one of the newly detected linear image segments 112, 122, a determination is made based on the aforesaid equations as to whether the newly detected linear image segment 112, 122 belongs to one of the objects 11, 12." That is, the determination to identify an object according to a spatial correlation is performed immediately after the right end point is found, when the system is searching in the row for the next start point (Apparently, the system does not hold until the determination to identify an object is done; the system is "acquiring pixel values of each row sequentially in the image".

/AVINASH YENTRAPATI/
Examiner, Art Unit 2624

/Yubin Hung/
Primary Examiner, Art Unit 2624

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
11/409,584	04/24/2006	Mei-Ju Chen	13471-003

CONFIRMATION NO. 3025

POA ACCEPTANCE LETTER

61157
TUNG & ASSOCIATES / RANDY W. TUNG, ESQ.
838 W. LONG LAKE RD.
SUITE 120
BLOOMFIELD HILLS, MI 48302

OC000000045764352

Date Mailed: 01/31/2011

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/20/2008.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

/jlburke/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED
MAY 18 2011
OFFICE OF PETITIONS

TUNG & ASSOCIATES / RANDY W. TUNG, ESQ.
838 W. LONG LAKE RD.
SUITE 120
BLOOMFIELD HILLS, MI 48302

In re Application of	:	
Mei-Ju Chen	:	
Application No. 11/409,584	:	DECISION ON PETITION
Filed: April 24, 2006	:	
Attorney Docket No. 13471-003	:	

This is a decision on the renewed petition, filed March 28, 2011, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision should be submitted within two (2) months from the mail date of this decision and be entitled "Renewed Petition to Withdraw the Holding of Abandonment under 37 CFR 1.181." *See* 37 CFR 1.181(f).

This application was held abandoned for failure to reply to the final Office action of November 5, 2009, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on June 11, 2010.

Petitioner is contending that applicant's representative made "diligent and timely effort" in filing the first and second Change [of Correspondence Address] Requests" and that it is "the inaction or failure to act of the USPTO that resulted in the Abandonment of the Application, which is entirely not the fault of the Applicant's representative." Office records indicate that the non-entry of the Power of Attorney (and the associated change in Correspondence Address) filed November 20, 2008 (Request), resulted in the mailing of the final Office action to an address different from that specified in the Request. However, **by the timely response to the final Office action** filed on February 2, 2010, it is clear that the **petitioner was in receipt of the final Office action in question**. The Office mailed an Advisory action on March 2, 2010, noting therein the reasons as to why the reply of February 2, 2010, did not place the

instant application in condition for allowance. While the applicant or petitioner may not have received a copy of the Advisory action, petitioner should note that evidence of non-receipt of an Office communication or action (e.g., Notice of Abandonment or and Advisory Action) other an that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment See Lorenz v. Finkl, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); Krahn v. Commissioner, 15 USPQ2d 1823, 1824 (E.D. Va 1990); In re Application of Fischer, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988). In other words, the application became abandoned due to the lack of a proper reply to the final Office action and not because of a lack of reply to the Advisory action.

Petitioner still has not met the burden of proof to have the abandonment withdrawn and the instant application was properly held abandoned for failure to timely file a proper reply to the final Office action of November 5, 2009. The application became abandoned by law on February 6, 2010. Accordingly, the instant petition to withdraw the holding of abandonment cannot be granted at this time.

ALTERNATIVE VENUE

Petitioner is strongly encouraged to consider filing a petition under 37 CFR 1.137(b) to revive an unintentionally abandoned application instead of filing a renewed petition under 37 CFR 1.181 or a petition under 37 CFR 1.137(a).

A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

> (1) The reply required to the outstanding Office action or notice, unless previously filed. In nonprovisional utility application abandoned for failure to respond to a final Office action, the required reply may be met by filing one of the following: (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; or (4) or the filing of a continuing application under 37 CFR 1.53(b).
>
> (2) The petition fee as set forth in 37 CFR 1.17(m), **$810 for a small entity**;
>
> (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

A form for filing a petition to revive an unintentionally abandoned application accompanies this decision for petitioner's convenience. If petitioner desires to file a petition under 37 CFR 1.137(b) instead of filing a request for reconsideration, petitioner

must complete the enclosed petition form (PTO/SB/64) ,pay the $810 petition fee and include one of the required replies noted above.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries related to this decision may be directed to the JoAnne Burke at (571) 272-4584.

/Ramesh Krishnamurthy/
Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

Enclosure: 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

DAVIS & BUJOLD, P.L.L.C.
112 PLEASANT STREET
CONCORD, NH 03301

MAILED

JAN 31 2011

OFFICE OF PETITIONS

In re Application of	:	
Robert JOHNSON	:	
Application No. 11/409,608	:	DECISION ON PETITION
Filed: April 24, 2006	:	UNDER 37 CFR 1.55(c)
Attorney Docket No. **THOLAM P304US**	:	

This is a decision on the petition under 37 CFR 1.55(c), filed July 22, 2010, to accept an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for benefit of priority to the filing date of foreign Canadian Application No. 2,507,332 filed April 29, 2005.

The petition is **DISMISSED**.

This application was filed after November 29, 2000, and did not include a reference to the foreign application, for which benefit is now sought, within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior foreign application. Since the claim for priority is submitted after the period specified in 37 CFR 1.55(a)(1)(i), this is an appropriate petition under the provisions of 37 CFR 1.55(c).

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;
(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date, and be included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6));
(3) the surcharge as set forth in 37 CFR 1.17(t);
(4) **a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional (the Director may require additional information where there is a question**

whether the delay was unintentional); and

(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

The petition fails to comply with items (3) and (4) above. As to item (3), the petition fee of $1410 was deficient by $1280. Petitioner provided authorization to charge any deficient amount to deposit account no. 04-0213, however, the account has insufficient funds and the balance of $1280 could not be processed. As to item (4), the required statement of unintentional delay was omitted.

In view of the above, compliance with the above statement and petition fee requirement must be satisfied if applicant desires to claim priority to the foreign application noted in the petition. Any future petition should include a cover letter and be entitled "Renewed Petition under 37 CFR 1.55(c)."

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Monica A. Graves at (571) 272-7253.

Thurman K. Page
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Snell & Wilmer L.L.P., (Komaromy)
One Arizona Center
400 East Van Buren Street
Phoenix AZ 85004-2202

MAILED
AUG 10 2011
OFFICE OF PETITIONS

In re Application of	:	
Siddhartha NAG et al.	:	
Application No. 11/409,661	:	ON PETITION
Filed: April 24, 2006	:	
Attorney Docket No. 59654.0800	:	

This is a decision on the petition under 37 CFR 1.59(b), filed June 22, 2011, to expunge information from the above identified application.

The petition is **DISMISSED**.

Petitioner requests that the following document, a Request for Continued Examination (RCE) that was inadvertently filed in the above-identified application on June 13, 2011, be expunged from the record.

As set forth in MPEP 724.05(II):

> A petition to expunge information unintentionally submitted in an application (other than information forming part of the original disclosure) may be filed under 37 CFR 1.59(b), provided that:
>
> (A) the Office can effect such return prior to the issuance of any patent on the application in issue;
> (B) it is stated that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted;
> (C) the information has not otherwise been made public;
> (D) there is a commitment on the part of the petitioner to retain such information for the period of any patent with regard to which such information is submitted;
> (E) it is established to the satisfaction of the Director that the information to be returned is not material information under 37 CFR 1.56; and
> (F) the petition fee as set forth in 37 CFR 1.17(g) is included.

Application No. 11/409,661

While it is established that the RCE filed June 13, 2011 was inadvertently filed, and is not deemed to be material information under 37 CFR 1.56, the petitioner has failed to satisfy or establish items (A)-(D) as set forth in MPEP 724.05 (II).

A petition fee of $200 will be charged to Deposit Account No. 19-2814, as authorized by Petitioner, and as set forth in 37 CFR 1.17(g).

Petitioner also requests that the RCE fee paid on June 13, 2011, in the amount of $810, be credited back to Deposit Account No. 19-2814. The fee will be refunded once Petitioner has submitted a grantable petition.

Telephone inquiries concerning this decision should be directed to Andre Boyce at (571) 272-6726, or in his absence, the undersigned at (571) 272-7099.

David A. Bucci
Petitions Examiner
Office of Petitions

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Snell & Wilmer L.L.P., (Komaromy)
One Arizona Center
400 East Van Buren Street
Pheonix AZ 85004-2202

MAILED
SEP 22 2011
OFFICE OF PETITIONS

In re Application of :
Siddhartha NAG et al. :
Application No. 11/409,661 : ON PETITION
Filed: April 24, 2006 :
Attorney Docket No. 59654.0800 :

This is in response to the renewed petition under 37 CFR 1.59(b), filed September 7, 2011, to expunge information submitted under MPEP 724.05(II).

The petition is **GRANTED.**

Petitioner requests that certain papers, filed June 13, 2011, be expunged from the application file. Petitioner states that either (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public.

The information in question has been determined by the undersigned to not be material to the examination of the instant application.

In a paper file, the unintentionally submitted exhibits could, but not necessarily would, have been physically removed from the file wrapper and returned to applicant. In the IFW realm the corresponding action(s) is to close the document and also remove such from the listing of "Public[ly available] Documents." It is agreed that it would be appropriate in this instance to close the information that was erroneously filed in the above identified application, and also remove such from the listing of publicly available documents for this Image File Wrapper (IFW).

Applicant is required to retain the expunged material(s) for the life of any patent which issues from the above-identified application.

In view of the above, the papers filed June 13, 2011 will be removed from the file.

The RCE fee paid on June 13, 2011, in the amount of $810, will be refunded to petitioner's Deposit Account No. 19-2814.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-7099.

David Bucci
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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SEP 10 2010

OFFICE OF PETITIONS

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

In re Application of
Jacobus J.M. Van Dongen, et al
Application No. 11/409,718
Filed: April 24, 2006
Attorney Docket No.: IVSC.005CP1

ON PETITION

This is a decision on the petition, filed June 30, 2010, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for a failure to respond to a Notice Requiring Excess Claims Fees mailed September 18, 2009. A Notice of Abandonment was mailed on June 23, 2010. On June 30, 2010 the present petition was filed.

The petition is found to satisfy the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the requisite claim fees; (2) the petition fee of $810; and (3) an adequate statement of unintentional delay.

It is noted that the claim fees have been overpaid by $52, in view of the present payment and the payment made on April 20, 2010. Accordingly, the $52 overpaid is being refunded in the form of a credit to counsel's credit card.

The application file is being forwarded to Technology Center Art Unit 1634 for appropriate consideration by the examiner in due course.

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.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SEP 09 2010

OFFICE OF PETITIONS

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

ON PETITION

In re Application of :
Jacobus J.M. Van Dongen, et al :
Application No. 11/409,718 : ON PETITION
Filed: April 24, 2006 :
Attorney Docket No.: IVSC.005CP1 :

This is a decision on the petition, filed June 30, 2010, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for a failure to respond to a Notice Requiring Excess Claims Fees mailed September 18, 2009. A Notice of Abandonment was mailed on June 23, 2010. On June 30, 2010 the present petition was filed.

The petition is found to satisfy the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the requisite claim fees; (2) the petition fee of $810; and (3) an adequate statement of unintentional delay.

It is noted that the claim fees have been overpaid by $52, in view of the present payment and the payment made on April 20, 2010. Accordingly, the $52 overpaid is being refunded in the form of a credit to counsel's credit card.

The application file is being forwarded to Technology Center Art Unit 1634 for appropriate consideration by the examiner in due course.

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.

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

HEWLETT-PACKARD COMPANY
Intellectual Property Administration
3404 E. Harmony Road
Mail Stop 35
FORT COLLINS CO 80528

MAILED
MAR 22 2011
OFFICE OF PETITIONS

In re Application of	:	
Harvey K. Skinner	:	
Application No.: 11/409852	:	DECISION ON
Filing or 371(c) Date: 04/24/2006	:	PETITION
Attorney Docket Number:	:	
200600653-1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 16, 2010, to revive the above-identified application.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance and Issue Fee Due, mailed August 23, 2010. The Notice set a non-extendable three (3) month period for reply. No reply having been received, the application became abandoned 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 payment of the issue fee; (2) the petition fee; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

This application is being referred to the Office of Data Management for processing into a patent.

/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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Henri Duong
316 1/2 E Glendon way
Alhambra CA 91801

MAILED

FEB 28 2011

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Duong :
Application No. 11/409,918 :
Filed: April 25, 2006 :
Attorney Docket No. N/A :
For: ANTI-POLLUTION
MOTORS/ENGINES RUN BY
AIR/LIQUID/GAS CYCLE, SPRING FORCE,
PUMP, ENERGY BLADES

This is a decision on the petition under 37 CFR 1.137(a), filed January 20, 2011 (certificate of mailing date January 17, 2011).

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(a)." Petitioner is advised that this is not a final agency decision.

The rules and statutory provisions governing the operations of the U.S. Patent and Trademark Office require payment of a fee on filing each petition to revive an abandoned application for patent based on unavoidable delay or to accept an unavoidably delayed payment of a fee for issuing a patent. In this instance, the small entity fee required by law is $270.00.

The petition in the above-identified application was not accompanied by payment of the required fee. No consideration on the merits can be given that petition until the required fee is received.

Petitioner is encouraged to review the petition decision of November 20, 2009, in which applicant was encouraged to file a petition under 37 CFR 1.137(b) stating that the delay was unintentional.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay can not make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not

appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b). The required Rule 137(b) petition fee is $810.00.

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 may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAILED

MAR 25 2011

OFFICE OF PETITIONS

Henri Duong
316 1/2 E Glendon way
Alhambra CA 91801

In re Application of :
Duong :
Application No. 11/409,918 : ON PETITION
Filed: April 25, 2006 :
Attorney Docket No. N/A :
For: ANTI-POLLUTION MOTORS/ENGINES RUN BY AIR/LIQUID/GAS CYCLE, SPRING FORCE, PUMP, ENERGY BLADES

This is a decision on the renewed petition under 37 CFR 1.137(a), filed March 4, 2011

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(a)." Petitioner is advised that this is not a final agency decision.

Petitioner once again requests the Office grant his Rule 137(a) revival petition without payment of the petition fee. As explained in the May 20, 2009 decision on petition and the February 28, 2011 decision on petition, the merits of the petition cannot be reached until the petition fee is submitted.

The payment of the petition fee is a prerequisite to the filing of a petition to revive under 37 CFR 1.137(a). This requirement cannot be waived. MPEP 711.03(c)(III)(B). In other words, the Office of Petitions is without authority to waive the petition fee. Unless the $270.00 petition fee is paid, the Office of Petitions will not address the Rule 137(a) petition.

Petitioner is strongly encouraged to review the petition decision of November 20, 2009, which suggested petitioner file a petition under 37 CFR 1.137(b) stating that the delay was unintentional.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay can not make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive

under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b). The required Rule 137(b) petition fee is $810.00.

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

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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 may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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www.uspto.gov

Henri Duong
316 1/2 E Glendon way
Alhambra CA 91801

MAILED
APR 22 2011
OFFICE OF PETITIONS

In re Application of :
Duong :
Application No. 11/409,918 :
Filed: April 25, 2006 :
Attorney Docket No. N/A :
For: ANTI-POLLUTION MOTORS/ENGINES RUN BY AIR/LIQUID/GAS CYCLE, SPRING FORCE, PUMP, ENERGY BLADES

ON PETITION

This is a decision on the petition under 37 CFR 1.181, filed April 4, 2011.

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(a)." Petitioner is advised that this is not a final agency decision.

A final Office action was mailed on April 11, 2008. An amendment after final was filed on April 24, 2008. The amendment after final failed to place this application in *prima facie* condition for allowance, as was explained in the June 5, 2008 Advisory action. On June 10, 2008, petitioner filed a notice of appeal and required fee. The application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the extendable two month time period provided in 37 CFR 41.37(a)(1). A Notice of Abandonment was mailed on February 18, 2009.

Petitioner has filed numerous petitions relating to the abandonment. Petitions treated under 37 CFR 1.181 to withdraw the holding of abandonment have been dismissed on March 30, 2009, May 20, 2009, and November 20, 2009. No new arguments have been presented in the instant petition. Therefore, the instant petition has been addressed in the contents of the prior decisions that discuss the abandonment and Rule 181, which are hereby incorporated by reference.

Petitioner once again requests the Office grant a revival petition without payment of the petition fee. As explained in the March 25, 2011 decision on petition, the May 20, 2009 decision on petition, and the February 28, 2011 decision on petition, the merits of a revival petition cannot be reached until the petition fee is submitted.

The payment of the petition fee is a prerequisite to the filing of a petition to revive under 37 CFR 1.137(a) or (b). This requirement cannot be waived. MPEP 711.03(c)(III)(B). In other words, the Office of Petitions is without authority to waive the petition fee. ***There is no exception for financial hardship.***

Petitioner is strongly encouraged to file a petition under 37 CFR 1.137(b) stating that the delay was unintentional.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay can not make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b). The required Rule 137(b) petition fee is $810.00.

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
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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 may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
www.uspto.gov

Henri Duong
316 1/2 E Glendon way
Alhambra CA 91801

MAILED

MAY 27 2011

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Duong :
Application No. 11/409,918 :
Filed: April 25, 2006 :
Attorney Docket No. N/A :
For: ANTI-POLLUTION MOTORS/ENGINES RUN BY AIR/LIQUID/GAS CYCLE, SPRING FORCE, PUMP, ENERGY BLADES

This is a decision on the renewed petition under 37 CFR 1.181, filed April 28, 2011.

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 1.181." Petitioner is advised that this is not a final agency decision.

A final Office action was mailed on April 11, 2008. An amendment after final was filed on April 24, 2008. The amendment after final failed to place this application in *prima facie* condition for allowance, as was explained in the June 5, 2008 Advisory action. On June 10, 2008, petitioner filed a notice of appeal and required fee. The application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the extendable two month time period provided in 37 CFR 41.37(a)(1). A Notice of Abandonment was mailed on February 18, 2009.

Petitioner requests that the Office "... let me know which argument may overcome the ineligibility that your office will accept to withdraw the holding of abandonment of the application under 37 CFR 1.181 at no fee and late payment of other fees."

Petitioner is informed that no argument may overcome the dismissal of the petition under 37 CFR 1.181. Petitioner filed a Notice of Appeal on June 10, 2008. An appeal brief was filed on December 30, 2008. Unfortunately, petitioner did not purchase a 5 month extension of time when the December 30, 2008 appeal brief was filed. The application was abandoned due to applicant's lack of knowledge of Office rules pertaining to the necessity of obtaining an

extension of time when filing his appeal brief on December 30, 2008. As the application was properly held abandoned, the holding of abandonment will not be withdrawn.

If petitioner desires to continue with this application, his **only option** is revival under 37 CFR 1.137(b).

As to the request that the Office waive any revival fees, petitioner is reminded that the payment of the petition fee is a prerequisite to the filing of a petition to revive under 37 CFR 1.137. This requirement cannot be waived. MPEP 711.03(c)(III)(B). Therefore, consideration of the merits of any future filed revival petition under 37 CFR 1.137(b) before receipt of the petition fee is prohibited.

Petitioner is once again strongly encouraged to file a petition under 37 CFR 1.137(b) stating that the delay was unintentional. For petitioner's convenience, a blank PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) is enclosed.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay can not make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b). The required Rule 137(b) petition fee is $810.00.

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 may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Enclosures: blank PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

Privacy Act Statement

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

KRATZ, QUINTOS & HANSON, LLP
1420 K Street, N.W.
4th Floor
WASHINGTON DC 20005

MAILED
AUG 20 2010
OFFICE OF PETITIONS

In re Application of	:	
Ikuo Konishi, et al.	:	
Application No. 11/410,090	:	DECISION GRANTING PETITION
Filed: April 25, 2006	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 060342	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, August 17, 2010 to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on July 15, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Terri Johnson at (571) 272-2991.

This application is being referred to Technology Center AU 2874 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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United States Patent and Trademark Office
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VIKSNINS HARRIS & PADYS PLLP
PO BOX 111098
ST PAUL MN 55111-1098

MAILED
JAN 24 2012
OFFICE OF PETITIONS

In re Patent No. 8,062,858	: DECISION ON
Shohei Koide	: REQUEST FOR RECONSIDERATION
Application No. 11/410,227	: of PATENT TERM ADJUSTMENT
Issue Date: November 22, 2011	:
Filed: April 24, 2006	:
Attorney Docket No. 17027.002US7	:

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(d)", filed January 4, 2011, requesting that the patent term adjustment indicated on the above-identified patent be corrected from fifteen (15) days to four hundred seventy-seven (477) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **DISMISSED.**

On November 22, 2011, the instant application matured into U.S. Patent No. 8,036,215 with a patent term adjustment of fifteen (15) days. The Office determined a patent term adjustment of 15 days based upon 267 days of "A" delay and 41 days of "B" delay, reduced by 293 days of Applicant delay.

Petitioner argues that even though he filed an RCE on June 5, 2009, he should be awarded 37 CFR 1.703(b) "over three year" delay from the time the Office mailed a Notice of Allowance on August 16, 2010 until the issue date of the patent. In other words, Petitioner argue that no continued examination took place during this time period, and the Office should be accorded 464 additional days of delay pursuant to 37 CFR 1.703(b). Petitioner'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

Petitioner's arguments have been considered, but not found persuasive. The Office calculated the period of "B delay" pursuant to 37 CFR 1.702(b)(1) as 41 days based on the application having been filed on April 24, 2006, and a request for continued examination under 132(b) having been filed on June 5, 2009. In other words, the 464 day period beginning on the date of

mailing of the notice of allowance on August 16, 2010 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. Petitioner 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.

---

[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.

Petitioner'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 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).

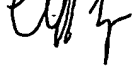
All of the continued examination pursuant to the filing of the request by the applicant is properly excluded from the delay attributed to the Office. 35 U.S.C. 154(b)(1)(B)'s guarantee of a total application pendency of no more than three years provides for adjustment of the patent term for delay due 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 June 5, 2009, and the patent issued by virtue of that request on November 22, 2011. Pursuant to 35 U.S.C. 154(b)(1)(B)(i), the period beginning on June 5, 2009 and ending on November 22, 2011 is not included in calculating Office delay.

CONCLUSION

In view thereof, it is concluded that the patent term adjustment of 15 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
Office of Petitions

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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.

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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

MAILED

DEC 15 2010

OFFICE OF PETITIONS

In re Application of	:	
Darrel Drinan, et al.	:	
Application No. 11/410,519	:	DECISION ON PETITION
Filed: April 25, 2006	:	TO WITHDRAW
Attorney Docket No. PHILO.002 C2	:	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) filed October 29, 2010.

The request is **NOT APPROVED**.

The Office will no longer approve requests from practitioners to withdraw from application where the requesting practitioners is acting, or has acted, in a representative capacity pursuant to 37 CFR 1.34. In these situations, the practitioner is responsible for the correspondence the practitioner files in the application while acting in a representative capacity. As such, there is no need for the practitioner to obtain the Office's permission to withdraw from representation. However, practitioners acting in a representative capacity, like practitioners who have power of attorney in the application, remain responsible for noncompliance with 37 CFR 1.56, as well as 37 CFR 10.18, with respect to the documents they file.

A review of the file record indicates that Knobbe, Martens, Olson & Bear LLP does not have power of attorney in this patent application. See 37 C.F.R. § 10.40. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

All future communications from the Office will continue to be directed to the above-listed address until otherwise properly notified by the applicant.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary

evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

There is an outstanding Office action mailed September 2, 2010 that requires a reply from the applicant.

Telephone inquires concerning this decision should be directed to undersigned at 571-272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

cc: PHILOMETRON, INC
10451 ROSELLE STREET
SUITE 100
SAN DIEGO, CA 92121

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LEGAL DEPARTMENT (M-495)
PO BOX 1926
SPARTANBURG SC 29304

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NOV 03 2011

OFFICE OF PETITIONS

In re Application of	:	
Magee, et al.	:	
Application No. 11/410,605	:	ON PETITION
Filed: April 26, 2006	:	
Attorney Docket No. 6012	:	

This is a decision on the petition to revive under 37 CFR 1.137(b), filed October 5, 2011.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The above application became abandoned for failure to timely file a reply to the Notice of Non-Compliant Amendment, mailed January 18, 2011. This Notice set an extendable period for reply of one month. No reply having been received, the application became abandoned on February 19, 2011.

With the instant petition, applicants made the proper statement of unintentional delay, paid the petition fee, and filed an Amendment.

The application is being forwarded to Group Art Unit 3765 for consideration of the Amendment, filed October 5, 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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MARTIN & FERRARO, LLP
1557 LAKE O'PINES STREET, NE
HARTVILLE, OH 44632

MAILED

DEC 07 2010

OFFICE OF PETITIONS

In re Application of :
Gary Karlin Michelson :
Application No. 11/410,612 :
Filed: April 25, 2006 :
Attorney Docket No. 101.0044-09000

ON PETITION

This is a decision on the petition, filed December 6, 2010 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on November 4, 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 3772 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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5599 SAN FELIPE
SUITE 1700
HOUSTON, TX 77056-2722

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AUG 10 2010

OFFICE OF PETITIONS

ON PETITION

In re Patent No. 7,561,056 :
Issue Date: April 7, 2009 :
Application No. 11/410,622 :
Filed: April 25, 2006 :
Attorney Docket No. 94.0094 :

This is a decision on the petition filed May 14, 2010, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the April M. Wise at (571) 272-1642. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

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43 BROAD STREET
PO BOX 58
NEW LONDON CT 06320

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NOV 19 2010

OFFICE OF PETITIONS

In re
Edward B. Hanley
Application No. 11/410,632
Filed: April 24, 2006
Patent No. 7,234,831
Issued: June 26, 2007
Attorney Docket No. 4732.101027

DECISION

This is a decision on the letter filed August 6, 2010, which is being treated as a notification of loss of entitlement to small entity status under 37 CFR 1.27.

The notification is hereby **accepted**.

The change of status to large entity has been entered.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

cc: Edward B. Hanley
3938 Belmore Way
Reno, Nevada 89503

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 03-09-11

TO SPE OF : ART UNIT 2612

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/410858 Patent No.: 7830257

CofC mailroom date: 02-23-11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

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: OK to enter.

DANIEL WU
SUPERVISORY PATENT EXAMINER
SPE

Art Unit 2612

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

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JUN 03 2011

OFFICE OF PETITIONS

Paper No.

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO IL 60610

In re Patent No. 7,935,065	:	DECISION ON REQUEST FOR
Martin et al.	:	RECONSIDERATION OF
Issue Date: May 3, 2011	:	PATENT TERM ADJUSTMENT
Application No. 11/411,241	:	and
Filed: April 26, 2006	:	NOTICE OF INTENT TO ISSUE
Atty Docket No.: 6298-668	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on January 18, 2011 pursuant to 37 C.F.R. § 1.705(d), requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by four hundred and ninety-one (491) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by nine hundred and twenty-five (925) days is **GRANTED to the extent indicated herein.**[1]

Patentee has indicated that his patent is not subject to a terminal disclaimer.[2]

The $200.00 fee set forth in 37 C.F.R. § 1.18(e) will be charged to Deposit Account No. 23-1925 in due course, as authorized on the second page of this petition. No additional fees are required.

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[1] It is noted that this petition was filed concurrently with the submission of the issue fee. As this was prior to the issuance of this patent, the over three-year "B-delay" period was not considered therein.

[2] Petition, page 2.

The Office agrees that the submission of an Information Disclosure Statement on August 17, 2010 warrants a 33-day reduction, pursuant to 37 C.F.R. § 1.704(c)(8).

A review of the record reveals that the Office assessed a 106-day reduction pursuant to 37 C.F.R. § 1.704(c)(10), pursuant to the submission of a paper on January 18, 2011. On this date, Applicant submitted the issue fee, form PTOL-85b, this petition, and a "notification regarding large entity status." None of these items warrants a 106-day reduction pursuant to 37 C.F.R. § 1.704(c)(10).

The patent is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **nine hundred and twenty-five (925) days:**

	623 days of examination delay
-	135 days of applicant delay
+	444 days of B-delay
-	7 days of overlap between the examination delay and the B-delay (November 6, 2009 - November 13, 2009)
	925 days

Telephone inquiries specific to this matter should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,935,065 B2

DATED : **May 3, 2011** **DRAFT**

INVENTOR(S) : **Martin 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 852 days

Delete the phrase "by 852 days" and insert – by 925 days --

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RISSMAN HENDRICKS & OLIVERIO, LLP
100 CAMBRIDGE STREET, SUITE 2101
BOSTON, MA 02114

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JAN 31 2011

OFFICE OF PETITIONS

In re Application of	:	
Michael T. MILBOCKER	:	
Application No. 11/411,283	:	DECISION GRANTING PETITION
Filed: April 26, 2006	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **P020-7003US1**	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed January 26, 2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on January 20, 2011 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 1615 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.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No.

LOTT & FISCHER, P.L.
P.O. BOX 141098
CORAL GABLES FL 33114-1098

MAILED
AUG 26 2011
OFFICE OF PETITIONS

In re Patent No. 7,371,351	:	
Dharendra Goswami	:	
Issue Date: May 13, 2008	:	
Application No. 11/411,312	:	LETTER REGARDING
Filed: April 26, 2006	:	FEE DEFICIENCY PAYMENT
Atty Docket No. 21018-1-0041	:	

This is in response to CORRECTION OF ENTITY STATUS UNDER 37 C.F.R. §1.28(c) AND NOTIFICATION OF LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS UNDER 37 C.F.R. § 1.27(g)(2) filed August 12, 2011, which is properly treated as a notification of loss of entitlement to small entity status.

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. 1098 Off. Gaz. Pat. Office 502 (January 3, 1989). Therefore, nothing in this Notice is intended to imply that an investigation was done.

The statement is signed by an attorney of record. The statement includes an itemization and payment of $865 for the deficiency in payment of fees.

Your notification of a loss of entitlement to small entity status and fee deficiency submission under 37 CFR 1.28 is now **ACCEPTED**.

Payment of the deficiency has been treated under § 1.27(g)(2) as a notification of a loss of entitlement to small entity status.

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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GREER, BURNS & CRAIN
300 S WACKER DR
25TH FLOOR
CHICAGO, IL 60606

MAILED
SEP 24 2010
OFFICE OF PETITIONS

In re Application of Akiyoshi Uchida, et al. Application No.: 11/411,329 Filed: April 26, 2006 Attorney Docket No.: 1114.75043	: : : : :	ON PETITION

This is a decision on the petition, filed September 23, 2010, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on September 15, 2010, cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2627 for further processing of the Request for Continued Examination (RCE) under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement (IDS).

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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HEWLETT-PACKARD COMPANY
INTELLECTUAL PROPERTY ADMINISTRATION
3404 E. HARMONY ROAD, MAIL STOP 35
FORT COLLINS, CO 80528

MAILED
AUG 25 2011
OFFICE OF PETITIONS

In re Application of	:	
Samuel A. FINEBERG et al	:	
Application No. 11/411,385	:	DECISION ON PETITION
Filed: April 25, 2006	:	
Attorney Docket No. 200503464-1	:	

This is a decision on the petition, filed August 23, 2011, to expunge information from an application and to correct the file contents above identified application. The petition will be considered under 37 CFR 1.182. This is also a decision on the request to expedite the petition decision under 37 CFR 1.182.

The request to expedite the petition decision under 37 CFR 1.182 is **GRANTED**.

The petition filed to enter the Reply Brief under 37 CFR 1.182 is **GRANTED**.

Petitioner, in substance, requests that the instant application contents be corrected to show that the communication to the Office filed March 19, 2010, with Certificate of Mailing dated March 12, 2010, contained a Reply Brief under 37 CFR 41.41(a)(1) designated for application number 11/411,385. The communication was scanned into an unrelated application pending in the Office.

A review of the file indicates that sufficient status identifiers were submitted with the communication filed March 19, 2010, to demonstrate a Reply Brief for 11/411,385. The copy of the submitted response filed with the petition has been scanning into the file of the abovementioned application. Accordingly, the petition is granted.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney documents must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

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 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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KENNETH I. KOHN
KOHN & ASSOCIATES, PLLC
SUITE 410
30500 NORTHWESTERN HIGHWAY
FARMINGTON HILLS MI 48334

MAILED
MAY 09 2011
OFFICE OF PETITIONS

In re Application of
Reich
Application No. 11/411,484
Filed/Deposited: 26 April, 2006
Attorney Docket No. 0137.00004

DECISION

This is a decision on the petition filed on 28 January, 2011, pursuant to 37 C.F.R. §1.137(b) for revival of an application abandoned due to unintentional delay.

NOTE:

The record (including the petition filed on 28 January, 2011) does not necessitate a finding that the delay between midnight 11 August, 2009 (the date of abandonment), and 28 January, 2011 (the date of the filing of grantable petition), was not unintentional.

Rather, the Patent and Trademark Office is relying in this matter on the duty of candor and good faith of Petitioner/Counsel Kenneth I. Kohn (Reg. No. 30,995) when accepting Petitioners' representation that the delay in filing the response was unintentional.[1]

The petition under 37 C.F.R. §1.137(b) is **GRANTED**.

[1] See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 C.F.R. §1.137(b) to the Patent and Trademark Office).

As to the Allegations
of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement and/or showing of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee

Petitioners' attentions always are directed to the guidance in the Commentary at MPEP §711.03(c)(II).

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the final Office action mailed on 11 May, 2009, with reply due absent extension of time on or before 11 August, 2009.

The application went abandoned by operation of law after midnight 11 August, 2009.

The Office mailed the Notice of Abandonment on 1 December, 2009.

On 28 January, 2011, Petitioner filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.137(b), with fee, a reply in the form of a request for continued examination (RCE) and fee and a submission under the provisions of 37 C.F.R. §1.114 in the form of an amendment, and made a statement of unintentional delay.

As noted above, the record (including the petition filed on 28 January, 2011) does not necessitate a finding that the delay between midnight 11 August, 2009 (the date of abandonment), and 28 January, 2011 (the date of the filing of grantable petition), was not unintentional.

Rather, the Patent and Trademark Office is relying in this matter on the duty of candor and good faith of Petitioner/Counsel Kenneth I. Kohn (Reg. No. 30,995) when accepting Petitioners' representation that the delay in filing the response was unintentional.[2]

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

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[2] See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 C.F.R. §1.137(b) to the Patent and Trademark Office).

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[3]

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[4]
The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

Unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and, by definition, are not intentional.[5]))

As to Allegations of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee.

It appears that the requirements under the rule have been satisfied.

CONCLUSION

Accordingly, the petition pursuant to 37 C.F.R. §1.137(b) is **granted**.

---

[3] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

[4] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[5] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

The instant application is released to the Technology Center/AU 2463 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 status need be directed to the TC/AU where that change of status must be effected—that does not occur in the Office of Petitions.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[6]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[6] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attdance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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	11411530
Filing Date	26-Apr-2006
First Named Inventor	Eric Marchewitz
Art Unit	1628
Examiner Name	SAN MING HUI
Attorney Docket Number	31570/32000
Title	USE OF DHEA DERIVATIVES FOR ENHANCING PHYSICAL PERFORMANCE

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	/Pooja Van Dyck/
Name	Pooja Van Dyck
Registration Number	64806

UNITED STATES 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 : July 15,2011

In re Application of :

Eric Marchewitz

DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 11411530

Filed : 26-Apr-2006

Attorney Docket No : 31570/32000

This is an electronic decision on the petition under 37 CFR 1.313(c)(2), filed July 15,2011 , to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid 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 1628 for processing of the request for continuing examination under 37 CFR 1.114 .

Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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LEE, HONG, DEGERMAN, KANG & WAIMEY
660 S. FIGUEROA STREET
Suite 2300
LOS ANGELES CA 90017

MAILED
JUN 08 2011
OFFICE OF PETITIONS

In re Application of	:	
MOON et al.	:	
Application No. 11/411,546	:	DECISION ON PETITION
Filed: April 26, 2006	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 2116-3040D1C1	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed May 12, 2011, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed with the petition.

The petition is **DISMISSED as unnecessary**.

The filing of a petition under 37 CFR 1.78(a)(3) is not required to correct the application number in the priority claim where the information concerning the benefit claim contained elsewhere in the application was recognized by the Office. In this regard, a petition and surcharge is unnecessary because the Office was able to properly identify the correct the application number in the ADS and the original application papers as filed.

Accordingly, in view of the amendment submitted to correct the application number in applicant's specification, the petition under 37 CFR 1.78(a)(3) is not required.

The surcharge fee submitted with the petition will be refunded to petitioner's deposit account no. 50-2290 in due course.

Any questions concerning this decision on petition may be directed to Jose' Dees at (571) 272-1569. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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BANNER & WITCOFF, LTD
AND ATTORNEYS FOR CLIENT NUMBER 011738
10 SOUTH WACKER DRIVE
SUITE 3000
CHICAGO IL 60606

MAILED

MAY 20 2011

OFFICE OF PETITIONS

In re Application of	:	
DREW, et al	:	
Application No. 11/411,712	:	DECISION ON PETITION
Filed: April 26, 2006	:	TO WITHDRAW
Attorney Docket No. P0021571.001 / LG10137	:	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 5, 2011.

The request is **NOT APPROVED.**

The request cannot be approved because no correspondence address for future communications from the Office has been provided.

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.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

/DCG/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAILED
JUL 15 2011
OFFICE OF PETITIONS

BANNER & WITCOFF, LTD
AND ATTORNEYS FOR CLIENT NUMBER 011738
10 SOUTH WACKER DRIVE
SUITE 3000
CHICAGO IL 60606

In re Application of	:	
DREW, et al	:	
Application No. 11/411,712	:	DECISION ON PETITION
Filed: April 26, 2006	:	TO WITHDRAW
Attorney Docket No. P0021571.001 / LG10137	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 24, 2011.

The request is **NOT APPROVED.**

The request cannot be approved because the correspondence address for future communications from the Office is that of an assignee who has not been properly made of record.

The Office will either change the correspondence address of record to the most current address information provided for the assignee of the entire interest who properly became of record under 37 CFR 3.71 or, if no assignee of the entire interest has properly been made of record under 37 CFR 3.71, the most current address information provided for the first named inventor. 37 CFR 3.71 states:

> *An assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement incompliance with § 3.73(b) that is signed by a party who is authorized to act on behalf of the assignee.*

Therefore, as there is currently no Statement under 37 CFR 3.73(b) in the instant application, the Office cannot change the correspondence address as indicated on the Request to Withdraw at this time.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

/Diane C. Goodwyn/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

cc: MEDTRONIC INC.
710 MEDTRONIC PARKWAY NE,
MS: LC340 LEGAL PATENTS
MINNEAPOLIS, MN 55432

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: 150271-US-NP	Patent Number: 7,660,236
Filing Date (or 371(b) or (f) Date): April 27, 2006	Issue Date: February 9, 2010
First Named Inventor: Kajal Saha	
Title: System and method of multi-nodal APS control protocol signaling	

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: 08/12/2010

Applicant	: Kajal Saha	: DECISION ON REQUEST FOR
Patent Number	: 7660236	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/411,969	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/27/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **485** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

Doc Code: PET.AUTO **Document Description: Petition automatically granted by EFS-Web**	PTO/SB/83 U.S. Patent and Trademark Office Department of Commerce

Electronic Petition Request	**REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS**
Application Number	11412261
Filing Date	26-Apr-2006
First Named Inventor	Richard Ewers
Art Unit	3773
Examiner Name	GREGORY ANDERSON
Attorney Docket Number	USGINZ04711
Title	Methods and apparatus for securing and deploying tissue anchors

◉ Please withdraw me as attorney or agent for the above identified patent application and the practitioners of record associated with Customer Number: 40518

The reason(s) for this request are those described in 37 CFR:

10.40(b)(4)

Certifications

☒ I/We have given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intend to withdraw from employment

☒ I/We have delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled

☒ I/We have notified the client of any responses that may be due and the time frame within which the client must respond

Change the correspondence address and direct all future correspondence to the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71:

Name	USGI Medical, Inc.
Address	1140 Calle Cordillera
City	San Clemente
State	CA
Postal Code	92673
Country	US

I am authorized to sign on behalf of myself and all withdrawing practitioners.	
Signature	/Johney U. Han/
Name	Johney U. Han
Registration Number	45565

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Decision Date : October 7,2011

In re Application of :

Richard Ewers

Application No : 11412261

Filed : 26-Apr-2006

Attorney Docket No : USGINZ04711

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY/AGENTOF RECORD

This is an electronic decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed October 7,2011

The request is **APPROVED.**

The request was signed by Johney U. Han (registration no. 45565) on behalf of all attorneys/agents associated with Customer Number 40518 . All attorneys/agents associated with Cusotmer Number 40518 have been withdrawn.

Since there are no remaining attorneys of record, all future communications from the Office will be directed to the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71, with correspondence address:

Name	USGI Medical, Inc.
Name2	
Address 1	1140 Calle Cordillera
Address 2	
City	San Clemente
State	CA
Postal Code	92673
Country	US

As a reminder, requester is required to inform the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71 of the electronically processed petition.

Telephone inquiries concerning this decision should be directed to the Patent Electronic Business Center (EBC) at 866-217-9197.

Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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BRINKS HOFER GILSON & LIONE/MARVELL
P.O. BOX 10395
CHICAGO IL 60610

MAILED

OCT 25 2010

OFFICE OF PETITIONS

In re Application of	:	
Carmi Arad, et al.	:	DECISION ON PETITION
Application No. 11/412,265	:	TO WITHDRAW
Filed: April 26, 2006	:	FROM RECORD
Attorney Docket No. **MP0731**	:	

This is a decision on the request to withdraw as attorney of record under 37 CFR § 1.36, filed September 29, 2010.

The request is **NOT APPROVED**.

The request cannot be approved because it lacks a forwarding correspondence address of the first named inventor or a properly intervening assignee.

If the forwarding correspondence address is to the assignee, the Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest *that properly became of record under 37 CFR 3.71.* 37 CFR 3.71(c) states:

> *An assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement in compliance with § 3.73(b) that is signed by a party who is authorized to act on behalf of the assignee.*

The assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, the statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-2991.

Terri Johnson
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Broadcom/BHGL
P.O. Box 10395
Chicago IL 60610

MAILED
FEB 10 2012
OFFICE OF PETITIONS

In re Application of	:	
Douglas Chin	:	
Application No. 11/412,268	:	DECISIONS ON PETITIONS
Filed: April 27, 2006	:	
Attorney Docket No. 14528.00100	:	

This is in response to the request under 37 CFR 1.48(a), filed December 6, 2011, to correct the inventorship.

This is also a decision on the petition under 37 CFR 1.78(a)(3), filed December 16, 2011, to accept an unintentionally delayed claim under 35 U.S.C. 120 for the benefit of prior-filed nonprovisional Application No. 11/043,575, set forth in the currently filed amendment.

REQUEST 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 the person being added as an inventor that the error in inventorship occurred without deceptive intention on his part;

(3) An oath or declaration by the actual inventors as required by § 1.63 or as permitted by § 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 (accompanied by a statement under 37 CFR 3.73(b)).

The request lacks items (3) and (5) above.

As to item (3), an oath or declaration by each actual inventor or inventors listing the entire inventive entity has not been submitted in accordance with 37 CFR 1.48(a)(3). "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." MPEP 201.03(II)(B).

In this instance, the desired inventive entity is Chin and Mohsenian. Thus, a declaration may not be executed only by Chin naming only Chin as the inventor and a different declaration may not be executed only by Mohsenian naming only Mohsenian as the inventor. See id. Therefore, petitioner must submit a new declaration listing both Chin and Mohsenian as inventors and executed by both of them.

As to item (5), the petition lacks the written consent of the assignee to the requested correction of the inventorship as set forth in 37 CFR 1.48(a)(5). Petitioner indicated that the written consent of the assignee accompanied the present petition; however, it was not located among the papers submitted with the petition. The Office acknowledges receipt of the Statement under 37 CFR 3.73(b) establishing the assignee's ownership of the application.

Pursuant to MPEP 201.03(II)(D):

> The written consent of every existing assignee of the original named must be submitted. 37 CFR 1.48(a) does not limit assignees to those who are recorded in the U.S. Patent and Trademark Office records.
>
> . . .
>
> The individual signing on behalf of the assignee giving its consent to the requested inventorship correction, should specifically state that he or she has the authority to act on behalf of the assignee. In the absence of such a statement, the consent will be accepted if it is signed by an appropriate official of the assignee (e.g., president, vice president, secretary, treasurer, or derivative thereof) if the official's title has been made of record. A general statement of authority to act for the assignee, or on the specific matter of consent, or the appropriate title of the party signing on behalf of the assignee should be made of record in the consent.

Lastly, the Office has no record of receiving the requisite $130.00 processing fee. Accordingly, the Office will charge this amount to petitioner's Deposit Account as authorized.

In view of the above, the petition under 37 CFR 1.48(a) is **DISMISSED**. Petitioner may submit a request for reconsideration within **TWO (2) MONTHS from the mail date of this decision**. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.48(a)." Extensions of this time period are available under 37 CFR 1.136(a).

PETITION UNDER 37 CFR 1.78(a)(3)

A petition for acceptance of an unintentionally delayed claim under 35 U.S.C. 120 for the benefit of a prior-filed nonprovisional application pursuant to 37 CFR 1.78(a)(3) is applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

> (1) The reference required by 35 U.S.C. 120 and 37 CFR 1.78(a)(2) 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)(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 lacks items (1) and (3) above.

As to item (1), it appears that petitioner wishes to claim benefit of prior-filed nonprovisional Application No. 11/043,575 and provisional Application No. 60/681,307.[1] However, the amendment submitted on petition does not reference prior-filed provisional Application No. 60/681,307. Petitioner should review the benefit claim submitted on petition to ensure that appropriate references are made to each prior filed application for which benefit is desired. See MPEP 201.11(III)(C).

As to item (3), 37 CFR 1.78(a)(3)(iii) requires that the petition be accompanied by 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 statement presented in the petition will be accepted and construed as the statement required by 37 CFR 1.78(a)(3)(iii). Petitioner must notify the Office if this is not a correct interpretation of the statement contained in the present petition.

In view of the above, the petition under 37 CFR 1.78(a)(3) is **DISMISSED**. If petitioner wishes to claim benefit of prior-filed nonprovisional Application No. 11/043,575 and provisional Application No. 60/681,307, petitioner must file a "Renewed Petition under 37 CFR 1.78(a)(3)" accompanied by an amendment to the specification or a Supplemental Application Data Sheet

[1] The declaration submitted on December 6, 2011, contains a claim for the benefit under 35 U.S.C. 119(e) of Application No. 60/681,307, filed May 16, 2005.

identifying both prior-filed applications. No additional petition fee is required for filing a renewed petition under 37 CFR 1.78(a)(3).

The Office notes that 37 CFR 1.33(b) requires that amendments and other papers, except for written assertions pursuant to 37 CFR 1.27(c)(2)(ii), filed in an application must be signed by an appropriate party. Therefore, a Supplemental Application Data Sheet or an amendment to the first line of the specification submitted on renewed petition must be signed in accordance with 37 CFR 1.33(b).

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

Petitioner may also file correspondence electronically via the EFS-Web.

Telephone inquiries should be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 7,858,623

ISSUE DATE : December 28, 2010

INVENTOR(S) : Tae-Seong Kim et al.

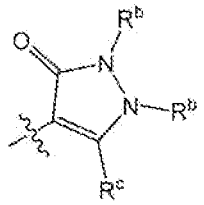
OK TO ENTER: /RA/

/RA/ 10/11/2011

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Column 249, line 44, change:"an" to "a".

Column 249, line 55, change structure to



~~Column 250, line 40, change: "C1-C6alkynyl" to "C2-C6alkynyl"~~

Column 250, line 40, change "(C_1-C_6)alkynyl" to "(C_2-C_6)alkynyl"

Column 251, line 11, insert "(R)-N-(4-(6-(3-(dimethylamino)pyrrolidine-1-carboxamido)pyrimidin-4-yloxy)-3-fluorophenyl)-5-methyl-3-oxo-2-phenyl-1-propyl-2,3-dihydro-1H-pyrazole-4-carboxamide"

MAILING ADDRESS OF SENDER:

PATENT NO. 7,858,623

AMGEN INC.
1120 Veterans Boulevard, MS-ASF3-2
South San Francisco, California 94080

No. of add'l copies
@ 50¢ per page

⇒ _____

FORM PTO 1050 (MODIFIED)

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20111011

DATE : October 09, 2011

TO SPE OF : ART UNIT 1626

SUBJECT : Request for Certificate of Correction on Patent No.: 7858623

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - ST (South Tower) 9A22
Palm location **7590** - Tel. No. (703) 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriated box.

☒ **Approved** All changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

the third change, specifically, col. 250, line 40, was not written correctly on the pto form 1050, Examiner Anderson has changed "C1-C6alkynyl" and "C2-C6alkynyl" to what is correct from the patent. These have been changed to have parenthesis as in the patent, i.e. (C1-C6)alkynyl and (C2-C6)alkynyl and to have the numbers in subscript as in the patent.

/Joseph K. McKane/
Supervisory Patent Examiner, Art Unit 1626

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

HYPERION CATALYSIS INTERNATIONAL , INC.
LEGAL DEPARMENT
930 CLOPPER ROAD
GAITHERSBURG MD 20878

MAILED

NOV 08 2010

OFFICE OF PETITIONS

In re Application of	:	
Fischer et al.	:	
Application No. 11/412,350	:	ON PETITION
Filed: April 26, 2006	:	
Attorney Docket No. 100647-03351	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed October 14, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the Issue Fee Transmittal with payment of the issue and publication fees, (2) the petition fee of $810.00, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to the Office of Data Management for processing into a patent.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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PROCOPIO, CORY, HARGREAVES & SAVITCH, LLP
525 B STREET
SUITE 2200
SAN DIEGO, CA 92101

MAILED

AUG 06 2010

OFFICE OF PETITIONS

In re Application of :
Subir Varma :
Application No. 11/412,412 : ON PETITION
Filed: April 26, 2006 :
Attorney Docket No. 112174-078UTL :

This is a decision on the petition under 37 CFR 1.137(b), filed July 2, 2010, to revive the above-identified application.

The application became abandoned for failure to file a reply to the non-final Office action mailed January 13, 2009. A Notice of Abandonment was mailed on August 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 $1,620; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to Technology Center Art Unit 2419 for review of the amendment submitted with the present petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

GENERAL ELECTRIC COMPANY
GLOBAL RESEARCH
ONE RESEARCH CIRCLE, BLDG. K1-3A59
NISKAYUNA NY 12309

In re Application of	:	
Liang JIANG, et al	:	
Application No. 11/412,444	:	DECISION ON PETITION
Filed: April 27, 2006	:	
Attorney Docket No. 1260887-1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 12, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue and publication fees as required by the Notice of Allowance and Fee(s) Due, mailed March 29, 2010, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on June 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 payment of the issue fee of $1510 and publication fee of $300; (2) the petition fee of $1620; and (3) and the required statement of unintentional delay.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Michael I. Kroll
80 Skyline Drive
Suite 304
Plainview, NY 11803

MAILED

JUL 21 2011

OFFICE OF PETITIONS

In re Application of	:	
Ahmed Khalifa Al-Yousuf	:	
Application No. 11/412,447	:	ON PETITION
Filed: April 27, 2006	:	
Attorney Docket No. AA-1-js	:	

This is a decision on the petition under 37 CFR 1.181 (no fee), filed June 29, 2011, to withdraw the holding of abandonment in the above-identified application.

The record shows that a final Office action was mailed on June 29, 2010, which set a three month shortened statutory period for reply. On November 29, 2010, a Notice of Appeal and $270 fee along with $245 for a two month extension of time was filed. The two-month period for filing an appeal brief and fee was set to run from November 29, 2010, which is the date the Notice of Appeal was filed. On June 29, 2011, an Appeal Brief and fee was timely filed with the submission of $1,175 for a five month extension of time pursuant to the provisions of 37 CFR 1.136(a). Therefore, since petitioner timely filed a response within the five month extendable period, this application is in fact not abandoned.

In view of the above, the present petition is **granted** and the above application is restored to pending status.

This application file is being referred to Technology Center Art Unit 2165, for further processing in accordance with this decision.

Inquiries concerning this decision may be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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MERCHANT & GOULD (MICROSOFT)
P.O. BOX 2903
MINNEAPOLIS MN 55402-0903

MAILED
AUG 18 2011
OFFICE OF PETITIONS

In re Application of	:	
Ian Tien, et al.	:	
Application No. 11/412,458	:	DECISION GRANTING PETITION
Filed: April 27, 2006	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No.	:	
14917.0403US01/316370.01		

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, August 17, 2011 to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 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 Terri Johnson at (571) 272-2991.

This application is being referred to Technology Center AU 3624 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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MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

MAILED
AUG 26 2011
OFFICE OF PETITIONS

In re Patent No. 7,953,161
GORDON, STEPHEN
Issued: May 31, 2011
Application No. 11/412,617
Filed: April 27, 2006
Attorney Docket No. 16302US02

: DECISION ON REQUEST FOR
: RECONSIDERATION OF PATENT
: TERM ADJUSTMENT AND
: NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION
:

This is a decision on the petition filed on August 1, 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 four hundred thirty-four (1434) days.

The petition to correct the patent term adjustment is being **GRANTED** to the extent that patent term adjustment indicated on the above-identified patent is **one thousand three hundred ninety-three (1393) days.**

On May 31, 2011, the above-identified application matured into U.S. Patent No. 7,953,161. The patent issued with a revised Patent Term Adjustment of 1391 days. On August 1, 2011, patentees filed a timely request for reconsideration within two months of the date the patent issued. See 37 CFR 1.705(d).

Patentees assert that the Office should not have assessed a period of 2 days of applicant delay pursuant to 37 CFR 1.704(b) for the filing of a reply on the next business day, Monday, November 1, 2010, to a non-final Office action mailed June 30, 2010.

Patentees' assertion is well taken. The reduction of 2 days pursuant to 37 CFR 1.704(b) will be removed.

Patentees dispute the period of reduction of 41 days pursuant to 37 CFR 1.704(c)(10) for the filing of 5 sheets of replacement figures on April 21, 2011, after the mailing of the notice of allowance on January 21, 2011. Specifically, patentees argue:

> The only entry on this list on or near April 21, 2011, is "Workflow - Drawings Finished." That entry indicates that the drawings filed on that day were fully processed on the same day. No paper was ever mailed to the applicant in response to the paper submitted on April 21, 2011. The entry dated one day later indicates, "Application is considered ready for issue," indicating no further delay occurred after that date.
>
> * * *
>
> The Applicant's position is that this determination is incorrect for several reasons.
>
> 1. The USPTO never mailed a response to the alleged paper delaying prosecution, as the rule clearly contemplates must occur for it to determine the length of the alleged delay. In other words, the rule is simply inapplicable to this situation. The mailing date of the recordation of the patent grant is not a response to the alleged paper delaying prosecution, as it does not state anything about the drawings being acceptable or unacceptable as resubmitted.
>
> 2. The USPTO made an internal notation, "Workflow - Drawings Finished," which, if mailed to the applicant would have been such a response, and clearly indicated that the last day of any alleged delay is April 21, 2011. The USPTO failure to mail a paper corresponding to its internal notation should not be the basis for continuing to count the remaining days up to issue of the patent as a further delay of prosecution. Using the USPTO calculation of the delay, the sole day of applicant delay was April 21, 2011, the day the allegedly delaying paper was filed and the day it was processed.
>
> 3. The alternative delay indicated in the rule, four months, is clearly inapplicable as well, as prosecution clearly was not delayed at all, particularly after the patent issued.

> 4. Finally, even if the rule is applied, the rule adds an extra day to the reduction of patent term adjustment, contrary to the statute. This is addressed under the next heading below. The correct amount of reduction on this basis is submitted by the Applicant to be 0 days, which is the difference between the correct filing and mailing dates stated above, both April 21, 2011, but not exceeding four months. (The USPTO rule calls for a delay of 1 day in this situation, but the extra day is challenged below as contrary to the statute.)

Petition, pp. 3-4.

Patentees assert that the calculation of the period of reduction pursuant to 37 CFR 1.704(c)(10) "is inconsistent with the statute and other USPTO calculations based on events that reduce an accrued patent term adjustment." *Petition, p. 6.* Patentees further assert that "the USPTO policy for calculation of the effect of filing a post-allowance paper on accrual of the three-year guarantee is in error, and provides an applicant delay one day longer than it should be, thus a PTA one day shorter than it should be." *Id. at 7.*

Patentees' arguments have been considered but are not persuasive. Patentees' attention is directed to 35 U.S.C. 154(b)(2)(C), REDUCTION OF PERIOD OF ADJUSTMENT, which states: "The Director shall prescribe regulations establishing the circumstances that constitute a failure of an applicant to engage in reasonable efforts to conclude processing or examination of an application." Pursuant to 35 U.S.C. 154(b)(2)(C)(iii), the Director prescribed 37 CFR 1.704(c)(10), which states:

> (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:
>
> (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[.]**

(Emphasis added).

The language of 37 CFR 1.704(c)(10)(i) indicates that the period for reduction will end on the mailing date of an Office action or notice in response to the paper. The entry "Workflow-Drawings Finished" is not an Office action or notice mailed in response to the drawings. Moreover, the record reveals that no Office action or notice was mailed in response to the 5 pages of replacement figures before the issuance of the patent. Therefore, pursuant to 35 U.S.C. 154(b)(2)(C)(ii) and 37 CFR 1.704(c)(10), the Office properly reduced the period of adjustment by 41 days, the lesser period of the number of days beginning on the date the drawings were filed, April 21, 2011, and ending on the date the patent issued, May 31, 2011.

The patent term adjustment is 1393 days (1129 days of "A delay" + 764 days of "B delay" - 459 days of overlap - 41 day of applicant delay).

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentee is given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

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 the payment of the $200.00 fee set forth in 37 CFR 1.18(e) as authorized. No additional fees are required.

This matter is being referred to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **1393 days.**

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,953,161 B2

DATED : May 31, 2011

INVENTOR(S) : Gordon

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 (1391) days.

Delete the phrase "by 1391 days" and insert – by 1393 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

12-9-2010

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Patent No. : 7,727,559 B2
Ser. No. : 11/412,665
Inventor(s) : McGinnis, et. al.
Issued : June 01, 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.

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

Brian S. Steinberger
101 Brevard Avenue
Cocoa, Fl 32922

ej

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450

MAILED
FEB 23 2012
OFFICE OF PETITIONS

BRIAN STEINBERGER/UCF
101 BREVARD AVENUE
COCOA FL 32922

In re Patent No. 7,727,559	:	
Issue Date: June 1, 2010	:	ON PETITION
Application No. 11/412,665	:	
Filed: April 27, 2006	:	
Atty. Docket No. UCF-569	:	

This is a decision on the petition filed June 27, 2011, treated as a petition under 37 CFR 1.323.

The petition is **DISMISSED**.

Applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration for Petition Under 37 CFR 1.323," and should address the deficiencies noted below. Extensions of time may be obtained in accordance with 37 CFR 1.136(a).

37 CFR 1.323 requires the granting of a request under 37 CFR 3.81(b). 37 CFR 3.81(b) requires

(1) the processing fee set forth in 37 CFR 1.17(i)

(2) a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and

(3) 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.

The instant petition lacks a grant of the request under 37 CFR 3.81(b) for lack of items (2) and (3).

Regarding item (2), there is no statement that the failure to include the correct assignee name was inadvertent.

Regarding item (3), there is no copy of the Notice of Recordation of Assignment Document.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By hand: U.S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **571-273-8300.**

Telephone inquiries relating to this decision should be directed to Robert DeWitty (571-272-8427).

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 01/30/12

TO SPE OF : ART UNIT: 2491 Attn: PATEL ASHOKKUMAR (ASHOK) B (SPE)

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/412691 Patent No.: 8082362

CofC mailroom date: 01/19/2012

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Note: Please check Claims 1 & 9 **Tasneem Siddiqui**
For the requested amendments to the claims

Should these amended claims be amended again or not **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: _____

/ASHOK PATEL/ 2491

SPE Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 03/15/11

DATE : 1/26/11

TO SPE OF : ART UNIT 2617

SUBJECT : Request for Certificate of Correction for Appl. No.: 11412865 Patent No.: 7627325

CofC mailroom date:
01/21/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Certificates of Correction Branch
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: Correction Entered: Does not change Scope of Claims

Mick Corovan 03/15/2011 2617
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

WENDEROTH, LIND & PONACK, L.L.P.
1030 15th Street, N.W.,
Suite 400 East
Washington DC 20005-1503

MAILED

SEP 28 2010

OFFICE OF PETITIONS

In re Patent No. 7,718,614 :
Itoh et al. : DECISION ON REQUEST FOR
Issue Date: May 18, 2010 : RECONSIDERATION OF
Application No. 11/412,874 : PATENT TERM ADJUSTMENT
Filed: April 28, 2006 :
Attorney Docket No. 2006_0619A :
Title: COMBINATION THERAPY OF :
PEPTIDE VACCINATION AND :
ESTRAMUSTINE TREATMENT :

This is a decision on the petition filed on July 16, 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 to one hundred thirty-seven (137) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **DISMISSED**.

Patentees dispute the 68 day reduction for the submission of the "Request for Placement of References in Application File", filed March 12, 2010. Patentees insist that the request to place the references in the file wrapper did not involve further examination or processing delay and thus is not a supplemental response pursuant to 37 CFR 1.704(c)(8).

Patentees' argument has been considered but not determined to be persuasive. 37 CFR 1.704(c) provides that:

> Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction

of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:

37 CFR 1.704 (c)(10) provides:

(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;

The submission filed March 12, 2010 warrants a 68 day reduction for the submission of the Request for Placement of References in Application File after the mailing of the Notice of Allowance. The submission of the foreign references after the mailing of the Notice of Allowance caused interference in the patent issue process. The 68 day period is calculated beginning on March 12, 2010 and ending on May 18, 2010 the date the patent issued. As such the 68 day reduction will not be removed.

The period of adjustment to which the patent is entitled under 37 CFR 1.702(a) is 250 days.

The period of adjustment to which the patent is entitled under 37 CFR 1.702(b) is 126 days.

The time taken up by the notice of appeal is excluded from the period of B-delay pursuant to 37 CFR 1.703(b)(4) in connection with the first Notice of Appeal filed May 4, 2009. The reduction of 121 days commenced May 4, 2009; the date that the Notice of Appeal was filed, and ended September 1, 2009, the day before the RCE was filed. See, 37 CFR 1.703(b)(4).

Patentees' delay total 187 days.

In view thereof, the patent is entitled to an overall adjustment of 68 days.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Telephone inquiries specific to this matter should be directed to Petitions Attorney, Charlema Grant at (571) 272-3215.

Anthony Knight
Director
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

June 1, 2011

Capitol City TechLaw, PLLC
113 S. Columbus St.
Suite 302
Alexandria VA 22314

In re Application of	:	
Hagemeyer, Alfred et al	:	**DECISION ON PETITION**
Application No. 11/412,918	:	
Filed: 04/28/2006	:	***ACCEPTANCE OF COLOR***
Attorney Docket No. 054-0004DIV	:	***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) April 28, 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.

/Diane Terry/
Quality Control Specialist
Office of Data Management
Publications Branch

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON, VA 22209-3873

MAILED
OCT 27 2010
OFFICE OF PETITIONS

In re Application of :
Hiroshi Aoki, et al. :
Application No.: 11/412,989 : ON PETITION
Filed: April 28, 2006 :
Attorney Docket No.: 501.46115X00 :

This is a decision in response to the petition, filed October 26, 2010, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on October 8, 2010, cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2629 for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement (IDS).

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED

OCT 26 2010

OFFICE OF PETITIONS

MICHAEL L. DIAZ, P.C.
555 REPUBLIC DRIVE, SUITE 200
PIANO TX 75074

In re Application of
Michael George Taylor
Application No. 11/413,033
Filed: April 27, 2006
For: PHASE ESTIMATION FOR COHERENT OPTICAL DETECTION

DECISION ON PETITION

This is a decision on the paper filed July 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 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 final Office action mailed December 24, 2009. A Notice of Abandonment was mailed on July 7, 2010.

Petitioner states that, "I, Michael Diaz, personally mailed via U.S. mail a Request for Continued Examination (RCE), an amendment in response to the final office action, and a credit card authorization sheet for payment of $650 for the RCE fees and extension fees on May 24, 2010."

On July 29, 2010, petitioner submitted the above petition accompanied by a copy of the RCE and the amendment showing a certificate of mailing date of May 24, 2010. However, the Office is not in receipt of the copy of the credit card authorization sheet to have been submitted on May 24, 2010 to charge the above fees.

Therefore, the petition to withdraw holding of abandonment is dismissed 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 $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.

/Karen Creasy/
Karen Creasy
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
www.uspto.gov

MICHAEL L. DIAZ, P.C.
555 REPUBLIC DRIVE, SUITE 200
PIANO TX 75074

MAILED

FEB 28 2011

OFFICE OF PETITIONS

In re Application of
Michael George Taylor
Application No. 11/413,033
Filed: April 27, 2006
For: PHASE ESTIMATION FOR COHERENT OPTICAL DETECTION

DECISION ON PETITION

This is a decision on the renewed petition filed November 1, 2010, under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is again **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 final Office action mailed December 24, 2009. A Notice of Abandonment was mailed on July 7, 2010.

Upon further review of the application, it is noted that petitioner only provided a certificate of mailing for the amendment submitted on May 24, 2010. There is no certificate of mailing for the Request for Continued Examination (RCE) submission. Therefore, the RCE is untimely. Note 37 CFR 1.8(a)(1)(ii). The Office is still not in receipt of a copy of authorization to charge fees on May 24, 2010. Additionally, a date stamped itemized post card receipt showing timely receipt of the documents has not been provided.

Accordingly, the petition to withdraw holding of abandonment is dismissed 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 $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.

/Karen Creasy/
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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OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA VA 22314

MAILED

OCT 21 2010

OFFICE OF PETITIONS

In re Application of	:	
Hye June Kim et al.	:	
Application No. 11/413,157	:	NOTICE
Filed: April 28, 2006	:	
Attorney Docket No. **290309US8**	:	

This is a notice regarding your request filed September 24, 2008, for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-4584.

JoAnne Burke
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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FISH & RICHARDSON P.C. (SD)
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

MAILED

NOV 02 2010

OFFICE OF PETITIONS

In re Application of
Anthony G. Macaluso
Application No. 11/413,241
Filed: April 28, 2006
Attorney Docket No. 13817-0012001

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 13, 2010.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The 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 John C. Phillips on behalf of all attorneys of record who are associated with Customer Number 20985.

All attorneys/agents associated with the Customer Number 20985 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the applicant at the address indicated below.

Currently, there is an outstanding Office action mailed August 5, 2010 that requires a reply.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Anthony G. Macaluso / Single Touch Interactive, Inc.
2235 Encinitas Boulevard, Suite 210
Encinitas, CA 92024

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Paper No.

MEDTRONIC, INC.
710 MEDTRONIC PARKWAY NE
MINNEAPOLIS MN 55432-9924

MAILED
DEC 21 2010
OFFICE OF PETITIONS

In re Application of	:	DECISION ON PETITION
Bonde et al.	:	
Application No. 11/413,301	:	
Filed: April 28, 2006	:	
Atty Docket No. P0025045.00/	:	
LG10137.L14	:	

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 **GRANTED**.

The above-identified application became abandoned for failure to pay the Issue Fee and Publication Fee within three months of the mailing date, May 26, 2010, of the Notice of Allowance and Fee(s) Due. This Office action set a three-month nonextendable statutory period for reply. A courtesy Notice of Abandonment was mailed on October 13, 2010.

This petition includes the required reply[1] in the form of payment of the Issue Fee and Publication Fee; payment of the petition fee set forth in 37 CFR § 1.17(m); and the required statement of unintentional delay. No terminal disclaimer is required.

It is concluded that all requirements of 37 CFR 1.137(b) have been met.

The Office of Data Management has been advised of this decision. The application is, thereby, forwarded for processing into a patent.

[1] The Notice of Allowability did not set forth a distinct but concurrent requirement for corrected drawings.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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HANA VERNY
PETERS, VERNY, JONES, SCHMIDT & ASTON, LLP
425 SHERMAN AVENUE
SUITE 230
PALO ALTO, CA 94306

MAILED
DEC 22 2011
OFFICE OF PETITIONS

In re Application of
Shuichi Mizuno, et al.
Application No. 11/413,419
Filed: April 28, 2006
Attorney Docket No. 3831.08D1

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 23, 2011 and resubmitted December 1, 2011.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The Office 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 not appointed by customer number. Practitioners must withdraw in the same manner by which they were appointed.

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 on November 17, 2011 does not include a proper chain of title.

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: SHUICHI MIZUNO
HISTOGENICS CORPORATION
830 WINTER STREET
3RD FLOOR
WALTHAM, MA 02451

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HANA VERNY
PETERS, VERNY, JONES, SCHMIDT & ASTON, LLP
425 SHERMAN AVENUE
SUITE 230
PALO ALTO, CA 94306

MAILED
JAN 24 2012
OFFICE OF PETITIONS

In re Application of
Shuichi Mizuno, et al.
Application No. 11/413,419
Filed: April 28, 2006
Attorney Docket No. 3831.08D1

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 10, 2012.

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 will no longer approve requests from practitioners to withdraw from application where the requesting practitioners is acting, or has acted, in a representative capacity pursuant to 37 CFR 1.34. In these situations, the practitioner is responsible for the correspondence the practitioner files in the application while acting in a representative capacity. As such, there is no need for the practitioner to obtain the Office's permission to withdraw from representation. However, practitioners acting in a representative capacity, like practitioners who have power of attorney in the application, remain responsible for noncompliance with 37 CFR 1.56, as well as 37 CFR 10.18, with respect to the documents they file.

A review of the file record indicates that Hana Verny of Peters, Verny, Jones, Schmidt & Aston, LLP does not have power of attorney in this patent application. See 37 C.F.R. § 10.40. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

All future communications from the Office will continue to be directed to the above-listed address until otherwise 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: SHUICHI MIZUNO
HISTOGENICS CORPORATION
830 WINTER STREET
3RD FLOOR
WALTHAM, MA 02451

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VERN MAINE & ASSOCIATES
547 AMHERST STREET, 3RD FLOOR
NASHUA NH 03063-4000

MAILED
AUG 16 2011
OFFICE OF PETITIONS

In re Application of	:	
Yuepeng Wan et al.	:	
Application No. 11/413,425	:	NOTICE
Filed: April 28, 2006	:	
Attorney Docket No. **GT015-US**	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed July 14, 2011.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-2783.

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions

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KILPATRICK TOWNSEND & STOCKTON LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

MAILED

JUN 01 2011

OFFICE OF PETITIONS

In re Application of	:	
Michael A. Evans et al	:	
Application No. 11/413,460	:	DECISION GRANTING PETITION
Filed: April 28, 2006	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 025925-001610US	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed May 31, 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 27, 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 3773 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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HENRICKS SLAVIN AND HOLMES LLP
840 APOLLO STREET, SUITE 200
EL SEGUNDO, CA 90245

MAILED
FEB 24 2011
OFFICE OF PETITIONS

In re Application of
David M. MELROSE
Application No. 11/413,583
Filed: April 28, 2006
Attorney Docket No. **010200-128**

DECISION GRANTING PETITION
UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition under 37 CFR 1.313(c)(2), filed February 22, 2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on February 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 the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 3781 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the information disclosure statement filed February 23, 2011.

/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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HENRICKS SLAVIN AND HOLMES LLP
SUITE 200
840 APOLLO STREET
EL SEGUNDO, CA 90245

MAILED
AUG 09 2011
OFFICE OF PETITIONS

In re Application of	:	
David Murray Melrose	:	
Application No. 11/413,583	:	DECISION GRANTING PETITION
Filed: April 28, 2006	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 010200-128	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed August 8, 2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **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 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 regarding this decision should be directed to undersigned at (571) 272-1642.

This application is being referred to Technology Center AU 3781 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 8-17-11 **Paper No.**: _____

TO SPE OF : ART UNIT 2179

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/413,647 Patent No.: 7716595

CofC mailroom date: 8-9-11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES: Check Drawings

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Ennis Yuh
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: All proposed changes are approved.

/Weilun Lo/ — **SPE**

2179 — **Art Unit**

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GERON CORPORATION
ATTN. DAVID J. EARP
230 CONSTITUTION DRIVE
MENLO PARK CA 94025

MAILED

SEP 29 2010

OFFICE OF PETITIONS

In re Application
Federico C.A. Gaeta
Application No. 11/413,838
Filed: April 27, 2006
Attorney Docket No. **081/004**

: DECISION ON APPLICATION
: FOR PATENT TERM ADJUSTMENT

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT DETERMINATION" filed April 14, 2010. Applicant requests that the determination of patent term adjustment be corrected from 33 days to 210 days. Applicant requests this correction in part on the basis that the Office will take in excess of three years to issue this patent and is being considered in light of the recent court decision in light of the Court of Appeals for the Federal Circuit's decision in *Wyeth v. Kappos*, 2009-1120 (Fed. Cir. 1-7-2010).

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within three years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentees are entitled to for Office failure to issue the patent within three years. See 37 CFR 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under 37 CFR 1.702(a)(4) or applicant delay under 37 CFR 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss such a request as premature.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant

to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicants must timely file an application for patent term adjustment prior to the payment of the issue fee.[1]

To the extent that applicant otherwise requests correction of the patent term adjustment at the time of the mailing of the Notice of Allowance, the application for patent term adjustment is **GRANTED**.

The Office has updated the PALM screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is zero (0) days including two hundred ten days for applicant delay. A copy of the updated PALM screen, showing the correct determination, is enclosed.

The instant application for patent term adjustment was timely filed[2] on or before payment of the issue fee.

On January 15, 2010, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b)in the above-identified application. The Notice stated that the patent term adjustment to date is 33 days.

On October 8, 2008 applicants filed a response to the Office action mailed September 8, 2008. Then on December 16, 2008, applicants filed a Supplemental Response. Pursuant to 37 CFR § 1.704(c)(8), the submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed, is a failure to engage in reasonable efforts to conclude prosecution.

Applicants argue that the correct period of adjustment for the Supplemental Information Disclosure Statement filed December 16, 2008 is 69 days, not 0 days as determined by the office. The Supplemental Information Disclosure Statement was received by the Patent Office on October 9, 2008, 69 days after the receipt of the response to September 9, 2008 Office Action. Applicants are correct that the Patent Term Adjustment should be reduced by an additional 69 days of applicants' delay, in

---

[1] For example, if applicants dispute both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed, and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicants must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the § 1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

[2] PALM records indicate that the issue fee was paid on April 14, 2010.

accordance with 37 CFR 1.704(c)(8) for the filing of a Supplemental Information Disclosure Statement on December 16, 2008.

Applicants argue further that the reduction of sixty (60) days attributed to applicant for failing to respond within three months to the non-Final Office Action mailed May 29, 2009 is inaccurate. Applicants argue that the response was incorrectly listed as having been filed on October 28, 2009 instead of the receipt date of October 29, 2009 which was filed with a two month extension of time. Thus, instead of a 60 day reduction for applicant delay pursuant to 37 C.F.R. §1.704(b), 61 days should have been accorded. A review of the record reveals that the initial determination of patent term adjustment of 60 days is incorrect.

Finally, Applicants note the correct date for the filing of the Terminal Disclaimer is October 30, 2009 and not October 29, 2009 as indicated by the office. As the Terminal disclaimer was filed one day past the response filed October 29, 2009, while the wrong filing dates are listed in PAIR, Applicants agree with the Patent Office that the period of Applicant delay is one day.

In view thereof, it is concluded that the determination of patent term adjustment at the time of the mailing of the Notice of Allowance is 0 days (173 days delay pursuant to 37 CFR 1.702(a)(1) minus 210 days for Applicant delay.)

Receipt of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. No additional fees are required.

The application is being forwarded to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of Revised PTA calculation

Day :
Monday
Date:
9/27/2010
Time:
17:01:22

PALM INTRANET

PTA Calculations for Application: 11/413838			
Application Filing Date:	**04/27/2006**	PTO Delay (PTO):	**173**
Issue Date of Patent:		Three Years:	**0**
Pre-Issue Petitions:	**0**	Applicant Delay (APPL):	**140**
Post-Issue Petitions:	**0**	Total PTA (days):	**0**
PTO Delay Adjustment:	**-70**		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
52	09/27/2010	ADJUSTMENT OF PTA CALCULATION BY PTO		69	
51	09/27/2010	ADJUSTMENT OF PTA CALCULATION BY PTO		61	
50	09/27/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	60		
42	01/15/2010	MAIL NOTICE OF ALLOWANCE			
41	01/14/2010	DOCUMENT VERIFICATION			
40	01/14/2010	ISSUE REVISION COMPLETED			
39	01/14/2010	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
38	01/14/2010	CASE DOCKETED TO EXAMINER IN GAU			
37	01/14/2010	NOTICE OF ALLOWABILITY			

31	12/11/2009	DATE FORWARDED TO EXAMINER			
30	10/28/2009	RESPONSE AFTER NON-FINAL ACTION		60	26
29	10/28/2009	REQUEST FOR EXTENSION OF TIME - GRANTED			
28	12/05/2009	PARALEGAL TD ACCEPTED			
27	10/29/2009	TERMINAL DISCLAIMER FILED		1	30
26	05/29/2009	MAIL NON-FINAL REJECTION			
25	05/26/2009	NON-FINAL REJECTION			
24	12/16/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
23	06/04/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
22	12/16/2008	REFERENCE CAPTURE ON IDS			
21	12/16/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
20	12/16/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
19	11/06/2008	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
18	09/08/2008	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
		MISCELLANEOUS ACTION			

17	09/05/2008	WITH SSP			
16	06/04/2008	REFERENCE CAPTURE ON IDS			
15	06/04/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		19	13
14	07/10/2008	DATE FORWARDED TO EXAMINER			
13	05/16/2008	RESPONSE TO ELECTION / RESTRICTION FILED		60	10
12	05/16/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
11	06/04/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
10	12/17/2007	MAIL RESTRICTION REQUIREMENT	173		-1
9	12/10/2007	REQUIREMENT FOR RESTRICTION / ELECTION			
8	12/05/2007	CASE DOCKETED TO EXAMINER IN GAU			
7	07/12/2006	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
6	07/12/2006	CASE DOCKETED TO EXAMINER IN GAU			
5	06/06/2006	APPLICATION DISPATCHED FROM OIPE			
4	06/07/2006	APPLICATION IS NOW COMPLETE			
3	05/17/2006	CLEARED BY OIPE CSR			
2	05/09/2006	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	04/27/2006	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back, right click here and select Back. To go forward, right click here and select Forward. To refresh, right click here and select Refresh.

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In re Patent No. 7278196
Issue Date: October 9,2007
Application No. 11413847
Filed: April 29,2006
Attorney Docket No. SSX-121-A

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed January 11,2012 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of January 11,2012 .
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)
7278196	2007-10-09	11413847	2006-04-29	

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	/STEVE M CLEMMONS/	Date (YYYY-MM-DD)	2012-01-11
Name	Steve M Clemmons	Registration Number	55078

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
www.uspto.gov

JONES & SMITH, LLP
2777 ALLEN PARKWAY, SUITE 1000
HOUSTON TX 77019-2141

MAILED
APR 03 2012
OFFICE OF PETITIONS

In re Application of	:	
Stanley P. Johnson	:	
Application No. 11/413,906	:	DECISION ON PETITION
Filed: April 28, 2006	:	
Attorney Docket No. 3080.005	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 14, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before November 1, 2010, as required by the Notice of Allowance and Fee(s) Due mailed July 30, 2010. Accordingly, the date of abandonment of this application is November 2, 2010. A Notice of Abandonment was mailed November 12, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $755.00 and the publication fee of $300.00, (2) the petition fee of $810.00; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

This application is being referred to the Office of Data Management for processing into a patent.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

WOLF GREENFIELD (MICROSOFT CORPORATION)
C/O WOLF, GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON, MA 02210-2206

MAILED

AUG 19 2010

OFFICE OF PETITIONS

In re Application of :
Amer A. Hassan et al :
Application No. 11/413,922 :
Filed: April 28, 2006 :
Attorney Docket No. M1103.70294US00

ON PETITION

This is a decision on the petition, filed August 18, 2010 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on July 7, 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 2436 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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LEE & HAYES, PLLC
601 W RIVERSIDE
SUITE 1400
SPOKANE, WA 99201

MAILED

MAR 08 2011

OFFICE OF PETITIONS

In re Application of	:	
Jung et al.	:	DECISION ON PETITION
Application No. 11/413,969	:	TO WITHDRAW
Filed: April 27, 2006	:	FROM RECORD
Attorney Docket No. QQ1 – 0164US	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed on January 25, 2011.

The request is **NOT APPROVED**.

The Office no longer accepts address changes to a new practitioner or law firm filed with requests under 37 C.F.R. § 1.36(b). The Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest *who properly became of record under 37 CFR 3.71,* or, if no assignee of the entire interest has properly been made of record, the most current address information provided for the first named inventor. 37 CFR 3.71(c) states:

> *An assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement in compliance with § 3.73(b) that is signed by a party who is authorized to act on behalf of the assignee.*

The request to withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) cannot be approved at this time.

There are no outstanding Office actions that require a reply from the applicant.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-6059. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Alicia Kelley
Petitions Examiner
Office of Petitions

cc: MARGARET ANDERSON
106 E. 6TH STREET, SUITE 900
AUSTIN TX 78701

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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Business Objects Americas; Business Ojects S.A.
SAP America, Inc.; Business Objects Software Ltd.
Business Objects Data Integration, Inc.
3580 Carmel Mountain Road, Suite 300
San Diego, CA 92130

MAILED
APR 25 2011
OFFICE OF PETITIONS

In re Application of	:	
Justin Mark Schell et al.	:	
Application No. 11/413,979	:	DECISION ON PETITION
Filed: April 28, 2006	:	TO WITHDRAW
Attorney Docket No. 34874-603F01US	:	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 **moot because a revocation of power of attorney has been filed**.

A review of the file record indicates that the power of attorney to Business Objects Americas, has been revoked by the assignee of the patent application on April 7, 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: Mintz, Levin, Cohn, Ferris, Glovsky &
Popeo, P.C.
One Financial Center
Boston, MA 02111

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 5-4-11 **Paper No.**: _____

TO SPE OF : ART UNIT 2165

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/414,072 Patent No.: 7,809,768

CofC mailroom date: 4-25-11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES: Should CofC be approved

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Ernis Young
Certificates of Correction Branch
703-756-1814 _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- [X] **Approved** — **All** changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: _____

/Neveen Abel-Jalil/
SPE

AU 2165
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
www.uspto.gov

Margaret Anderson
106 E. 6th Street, Suite 900
Austin TX 78701

MAILED

MAR 14 2011

OFFICE OF PETITIONS

In re Application of	:	
EDWARD K.Y. JUNG, ET AL.	:	
Application No. 11/414,161	:	DECISION ON PETITION
Filed: April 28, 2006	:	TO WITHDRAW
Attorney Docket No. **QQ1-0131US**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed January 27, 2011.

The request is **NOT APPROVED**.

The request cannot be approved because the Office no longer accept address changes to a new practitioner/customer number or law firm filed with a request, absent the filing of a power of attorney to the new representative.

The Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest *who properly became of record under 37 CFR 3.71* or, the most current address information provided for the first named inventor. 37 CFR 3.71(c) states:

> *An assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement in compliance with § 3.73(b) that is signed by a party who is authorized to act on behalf of the assignee.*

The assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, the statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

A courtesy copy of this decision is being mailed to the address on the request. However, all future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at 571-272-4584.

JoAnne Burke
Petitions Examiner
Office of Petitions

cc: LEE & HAYE, PLLC
601 W RIVERSIDE
SUITE 1400
SPOKANE, WA 99201

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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GOODWIN PROCTOR, LLP
ATTN: PATENT ADMINISTRATOR
135 COMMONWEALTH DRIVE
MENLO PARK, CA 94025-1105

MAILED
FEB 28 2011
OFFICE OF PETITIONS

In re Application of :
Dominique M. FREEMAN, *et al.* :
Application No. 11/414,242 : DECISION ON PETITION
Filed: April 27, 2006 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. **38187-2841.US** :

This is a decision on the petition under 37 CFR 1.78(a)(6), filed July 22, 2010, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed 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 Monica A. Graves at (571) 272-7253. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

The application is being forwarded to Technology Center AU 3736 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.

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
11/414,242	04/27/2006	3736	3025	38187-2841.US	70	12

CONFIRMATION NO. 3185

CORRECTED FILING RECEIPT

77845
Goodwin Procter LLP
Attn: Patent Administrator
135 Commonwealth Drive
Menlo Park, CA 94025-1105

OC000000046194375

Date Mailed: 02/25/2011

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)

Dominique M. Freeman, La Honda, CA;
Dirk Boecker, Palo Alto, CA;
Don Alden, Sunnyvale, CA;
Hans Joachim Hartmann, Mainz, GERMANY;
Lutz Weber, Zweibruken, GERMANY;

Power of Attorney: The patent practitioners associated with Customer Number 77845

Domestic Priority data as claimed by applicant

This application is a CON of 10/127,201 04/19/2002 PAT 7,041,068
which claims benefit of 60/298,055 06/12/2001
and claims benefit of 60/298,126 06/12/2001
and claims benefit of 60/297,861 06/12/2001
and claims benefit of 60/298,001 06/12/2001
and claims benefit of 60/298,056 06/12/2001
and claims benefit of 60/297,864 06/12/2001
and claims benefit of 60/297,860 06/12/2001

Foreign Applications (You may be eligible to benefit from the **Patent Prosecution Highway** program at the USPTO. Please see http://www.uspto.gov for more information.)

If Required, Foreign Filing License Granted: 05/24/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/414,242**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****
Title

Sampling module device and method

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).

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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VIERRA MAGEN/SANDISK CORPORATION
575 MARKET STREET
SUITE 2500
SAN FRANCISCO CA 94105

MAILED
SEP 13 2010
OFFICE OF PETITIONS

In re Application of	:	
Chin-Tien CHIU et al.	:	
Application No. 11/414,526	:	DECISION ON PETITION
Filed: April 28, 2006	:	
Attorney Docket No. SAND-01107US0	:	

This is a decision on the petition, filed March 01, 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**.

Petitioner request withdrawal of the Notice of Abandonment mailed February 17, 2010 for failure to respond to the Office action mailed October 28, 2009. Petitioner asserts that based on the one month time period for reply given by the Notice of Panel Decision mailed October 28 2009, which is extendible under CFR 1.136 for five months had until April 28, 2010.

A review of the Office records indicates that the applicant's five month time period for reply was in fact due by April 28, 2010. Accordingly, the notice of abandonment is withdrawn as premature.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at (571) 272-4231.

This application is being referred to the Technology Center Art Unit 2811 for the appropriate action on the appeal brief filed with the petition on March 01, 2010.

Thurman K. Page
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/414,590	04/28/2006	Steven J. Simske	200406652-1	3453

22879 7590 03/31/2011
HEWLETT-PACKARD COMPANY
Intellectual Property Administration
3404 E. Harmony Road
Mail Stop 35
FORT COLLINS, CO 80528

EXAMINER
MACKOWEY, ANTHONY M

ART UNIT	PAPER NUMBER
2624	

NOTIFICATION DATE	DELIVERY MODE
03/31/2011	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):

JERRY.SHORMA@HP.COM
ipa.mail@hp.com
laura.m.clark@hp.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

HEWLETT-PACKARD COMPANY
Intellectual Property Administration
3404 E. Harmony Road
Mail Stop 35
FORT COLLINS CO 80528

MAR 31 2011

In re Application of
Simske, Steven J.
Serial No.: 11/414,590
Filed: April 28, 2006
For: **RESPONSE TO NON-FINAL OFFICE ACTION ENTERED AND FORWARDED TO EXAMINER**

DECISION ON PETITION
ACCEPTANCE OF COLOR PHOTOGRAPHS

This is a decision on the petition under 37 C.F.R. §1.84(b)(2) filed July 13, 2007, requesting acceptance colored drawings.

The petition requests that the color drawings identified in Figures 4, 5, 6 and 7 be accepted in lieu of black and white drawings.

A grantable petition under 37 C.F.R. §1.84(a)(2) must be accompanied by a fee set forth under 37 C.F.R. § 1.17(h), 3 (three) sets of the color drawings in question, and the specification must contain, or be amended to contain, the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings:

"The file of this patent contains at least one drawing executed in color. Copies of this patent with color drawing(s) will be provided by the Patent and Trademark Office upon request and payment of the necessary fee."

The *petition* is **GRANTED**.

Daniel Swerdlow
Special Program Examiner
Technology Center 2600
Communications

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 11/16/2011

TO SPE OF : ART UNIT 1644

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/414742 Patent No : 7758859 B2

CofC mailroom date: 11/3/2011

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Note: _____

Virginia Tolbert

Certificates of Correction Branch

(571) 272-0460

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☒ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: The changes are typographical in nature and to be consistent with the sequence listing. The changes do not affect the scope of the claims.

SPE

Art Unit

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.
11/414,832	04/28/2006	Keith Miller	P0024568.00	2777

52196 7590 12/01/2010
MEDTRONIC
Attn: Noreen Johnson - IP Legal Department
2600 Sofamor Danek Drive
MEMPHIS, TN 38132

EXAMINER
HARVEY, JULIANNA NANCY

ART UNIT	PAPER NUMBER
3733	

MAIL DATE	DELIVERY MODE
12/01/2010	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.

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MEDTRONIC
Attn: Noreen Johnson - IP Legal Department
2600 Sofamor Danek Drive
MEMPHIS TN 38132

In re Application of:	
MILLER, KEITH et al	
Serial No.: 11/414,832	
Filed: April 28, 2006	DECISION ON PETITION
Docket: P0024568.00	
Title: ORTHOPEDIC IMPLANT APPARATUS	

This is a decision on the petition filed on October 15, 2010 seeking withdrawal of the finality of the Office action mailed August 13, 2010. This petition is being considered pursuant to 37 CFR §1.181. No fee is required.

The petition is dismissed as untimely.

In the October 15, 2010 petition, the petitioner requests the finality of the Office action of August 13, 2010 be reconsidered and withdrawn because the applicant believes that the final rejection of August 13, 2010 was premature. In particular, petitioner believes the examiner's final rejection was not necessitated by any claim amendment. A review of the record shows that the instant petition was filed more than two months after the mailing date of the final Office action of August 13, 2010. Pursuant to 37 CFR 1.181(f)[1], the petition is not timely filed since the petition was not filed within two months of the action complained of. As the petition was not timely filed, the requested withdrawal of finality of the Office action of August 13, 2010 will not be granted. .

For reason as stated above, petitioner's request to withdraw the finality of the Office action dated March 3, 2010 is dismissed as untimely. This application is forwarded to the examiner via the Supervisory Patent Examiner, Art Unit 3733 for consideration of Rule 116 amendment filed on Nov. 15, 2010.

[1] 37 CFR 1.181(f): The mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings. Any petition under this part not filed within two months of the mailing date of the action or notice from which relief is requested may be dismissed as untimely, except as otherwise provided. This two-month period is not extendable.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision, 37 CFR 1.181(f). No extension of time under 37 CFR 1.136(a) is permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181". The mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings. Any inquiry regarding this decision should be directed to Henry Yuen, Special Programs Examiner, at (571) 272-4856.

PETITION DISMISSED AS UNTIMELY.

Angela D. Sykes, Director
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Patent Jurist
2225 East Bayshore Road
Suite 200
Palo Alto CA 94303

MAILED

DEC 06 2010

OFFICE OF PETITIONS

In re Application of	:	
Graham Hershal Shapiro	:	
Application No. 11/414,854	:	DECISION ON PETITION
Filed: May 1, 2006	:	TO WITHDRAW
Attorney Docket No. 1019.001US1	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 13, 2010.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. 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 George Khayet on behalf of all attorneys/agents associated with customer number 85162. All attorneys/agents associated with customer number 85162 have been withdrawn.

The correspondence address has been changed and is copied below.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Graham H. Shapiro
437 36th Street Apt. 1
Oakland, CA 94609-2839

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
11/414,854	05/01/2006	Graham Hershal Shapiro	1019.001US1

CONFIRMATION NO. 2786

POWER OF ATTORNEY NOTICE

85162
Patent Jurist
2225 East Bayshore Road
Suite 200
Palo Alto, CA 94303

OC000000044818993

Date Mailed: 12/06/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/13/2010.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/kainabinet/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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NOV 04 2010

OFFICE OF PETITIONS

TROJAN LAW OFFICES
9250 WILSHIRE BLVD
SUITE 325
BEVERLY HILLS CA 90212

In re Application of	:	
William T. Pike et al.	:	
Application No. 11/414,866	:	DECISION ON PETITION
Filed: May 1, 2006	:	
Attorney Docket No. 06-04-2797	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 6, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the final Office action mailed, December 10, 2009, which set a shortened statutory period for reply of three (3) months. A two month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on April 11, 2010. A Notice of Abandonment was mailed on September 10, 2010. A reply was received on April 20, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Terminal Disclaimer, with the required fee of $140, (2) the petition fee of $810, and (3) a proper statement of unintentional delay. Accordingly, the Terminal Disclaimer 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 2856 for appropriate action by the Examiner in the normal course of business on the reply received August 31, 2010.

/Kimberly Inabinet/

Kimberly Inabinet
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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TURNING POINT LAW
100 SMITH RANCH ROAD, SUITE 116
SAN FAFAEL CA 94903

MAILED
APR 20 2011
OFFICE OF PETITIONS

In re Application of	:	
RENNARD	:	
Application No. 11/414,956	:	DECISION ON PETITION
Filed: May 1, 2006	:	
Attorney Docket No. REN-4	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 22, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue fee on or before June 14, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed March 12, 2010, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned 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 payment of the issue fee of $755; (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

This application is being referred to the Office of Data Management for processing into a patent.

/DCG/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No.

BINGHAM MCCUTCHEN LLP
2020 K Street, N.W.
Intellectual Property Department
WASHINGTON DC 20006

MAILED
JAN 05 2012
OFFICE OF PETITIONS

In re Application of	:	
Avery	:	
Application No. 11/415,054	:	DECISION ON PETITION
Filed: May 1, 2006	:	PURSUANT TO
Attorney Docket No.: AVE-001	:	37 C.F.R. § 1.28(c)
Title: IMPLANTABLE DELIVERY	:	
DEVICE FOR ADMINISTERING	:	
PHARMACOLOGICAL AGENTS TO AN	:	
INTERNAL PORTION OF A BODY	:	

This is a notice regarding your request for acceptance of a fee deficiency submission pursuant to 37 C.F.R. § 1.28, received on December 5, 2011. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 C.F.R. § 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).

The Office no longer investigates or rejects original or reissue applications under 37 C.F.R. § 1.56. 1098 Off. Gaz. Pat. Office 502 (January 3, 1989). Therefore, nothing in this notice is intended to imply that an investigation was done.

37 C.F.R. § 1.28(c)(2)(ii) sets forth that the party submitting the deficient payment must include:

(a) Each particular type of fee that was erroneously paid as a small entity, (e.g., basic statutory filing fee, two-month extension of time fee) along with the current fee amount for a non-small entity;
(b) The small entity fee actually paid, and when;
(c) The deficiency owed amount (for each fee

erroneously paid); and

(d) The total deficiency payment owed, which is the sum or total of the individual deficiency owed amounts set forth in paragraph (c)(2)(ii)(C) of this section.

Petitioner has identified the particular types of fees that were erroneously paid as a small entity, when the small entity fees were actually paid, and the total deficiency payment owed.

Petitioner has not identified the current fee amounts for a non-small entity, the small entity fees that were actually paid, or the deficiency owed amounts.

The requirement that Petitioner must provide the Office with the current fee amounts for a non-small entity, the small entity fees that were actually paid, and the deficiency owed amounts is waived, *sua sponte*.

The deficiency payment in the amount of $715.00 has been received.

Your fee deficiency submission pursuant to 37 C.F.R. § 1.28(c) is hereby accepted. The petition is **GRANTED** accordingly.

This 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 regarding *this decision* should be directed to the undersigned at (571) 272-3225.

Paul Shanoski
Senior Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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OFFICE OF PETITIONS

Paper No.

MBHB/TRADING TECHNOLOGIES
300 SOUTH WACKER DRIVE
SUITE 3200
CHICAGO IL 60606

In re Application of	:	
Kemp	:	
Application No. 11/415,163	:	ON APPLICATION FOR
Filed: May 2, 2006	:	PATENT TERM ADJUSTMENT
Atty Docket No. 07-1021-US-CON3	:	
Title: CLICK BASED TRADING WITH INTUITIVE GRID DISPLAY OF MARKET DEPTH	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT," filed July 19, 2010. Applicant requests that the patent term adjustment be corrected from three hundred and thirteen (313) days to either one hundred and eighty-two (182) days or two hundred and eighty-six (286) days. In the alternative, Applicant requests that the patent term adjustment remain unchanged.

The request for reconsideration of the patent term adjustment is **GRANTED to the extent indicated herein**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the notice of allowance is one hundred and seventy (170) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On April 19, 2010, the Office mailed a "Determination of Patent Term Adjustment under 35 U.S.C. 154 (b)," which indicated that the Patent Term Adjustment to date was 313 days. The present request for reconsideration, filed July 19, 2010, was timely filed as it was submitted concurrently with the issue fee. See § 1.705(b). Applicant requests that both the failure to accord any applicant delay associated with the submission of an amendment on October 10, 2008 and the 27-day reduction

associated with a October 17, 2008 non-final Office action be reviewed.

37 CFR 1.704(c)(8) sets forth that the following constitutes a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application, and will result in a reduction of the period of adjustment:

> Submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the initial reply was filed and ending on the date that the supplemental reply or other such paper was filed

A response to a non-final Office action was received on May 20, 2008 and a supplemental amendment was received 143 days later on October 10, 2008. It follows that a 143-day reduction is warranted, pursuant to 37 CFR 1.704(c)(8).

A non-final Office action was mailed on October 17, 2008, which is four months and 27 days after the receipt of the May 20, 2008 submission. The Office properly accorded a 27-day adjustment, pursuant to 37 CFR 1.702(a)(2) and 1.703(a)(2).

In view thereof, the patent term adjustment at the time of the mailing of the notice of allowance is 170 (338 days of Office delay minus 168 days of Applicant delay) days.

The Office acknowledges submission of the $200.00 fee set forth in 37 C.F.R. § 1.18(e). No additional fees are required. The Office thanks Applicant for his good faith and candor in bringing this to the attention of the Office.

Applicant is reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicants will be notified of the revised patent term adjustment to be indicated on the patent in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

The Office of Data Management has been advised of this decision. This matter is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this matter should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.

Anthony Knight
Director
Office of Petitions

Enclosure: Copy of REVISED PALM Screen

Patent Term Adjustments

PTA/PTE Information | Patent Term Adjustment | Patent Term Extension

Application Number*: 11415163 Search | Explanation of PTA Calculation | Explanation of PTE Calculation

PTA Calculations for Application: 11415163

Application Filing Date	05/02/2006	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	338
A Delays	338	PTO Manual Adjustment	-143
B Delays	0	Applicant Delay (APPL)	25
C Delays	0	Total PTA (days)	170

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
70	09/04/2010		P028	Adjustment of PTA Calculation by PTO		143	0
60	04/19/2010	04/16/2010	MN/=.	Mail Notice of Allowance	3		52
59	03/02/2010		IREV	Issue Revision Completed			0
58	03/02/2010		DVER	Document Verification			0
57	03/02/2010		N/=.	Notice of Allowance Data Verification Completed			0

56	03/01/2010		CNTA	Notice of Allowability			0	
53	12/24/2009		FWDX	Date Forwarded to Examiner			0	
52	12/16/2009		ELC.	Response to Election / Restriction Filed			0	
51	11/19/2009		ELC_RVW	Electronic Review			0	
50	11/19/2009		EML_NTF	Email Notification			0	
49	11/19/2009	10/12/2009	MCTRS	Mail Restriction Requirement	38		44	
48	09/14/2009		CTRS	Requirement for Restriction / Election			0	
47	07/02/2009		FWDX	Date Forwarded to Examiner			0	
45	07/02/2009		FWDX	Date Forwarded to Examiner			0	
43	07/02/2009		ABN9	Disposal for a RCE / CPA / R129			0	
46	06/12/2009		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE			0	
44	06/12/2009		RCEX	Request for Continued Examination (RCE)			0	
42	06/12/2009		BRCE	Workflow - Request for RCE - Begin			0	
41	06/10/2009		MCTFR	Mail Final Rejection (PTOL - 326)			0	
40	06/08/2009		CTFR	Final Rejection			0	
39	03/31/2009		FWDX	Date Forwarded to Examiner			0	
38	02/11/2009	01/17/2009	A...	Response after Non-Final Action		25	35	
37	02/11/2009		XT/G	Request for Extension of Time - Granted			0	
35	10/17/2008	09/20/2008	MCTNF	Mail Non-Final Rejection	27		29	
34	10/14/2008		CTNF	Non-Final Rejection			0	
36	10/10/2008		A.NQ	Amendment Crossed in Mail			0	
32	08/22/2008		IRFND	Request for Refund			0	
30	07/01/2008		FWDX	Date Forwarded to Examiner			0	
33	05/20/2008		IDSC	Information Disclosure Statement considered			0	
31	05/20/2008	05/20/2008	M844	Information Disclosure Statement (IDS) Filed			29	
29	05/20/2008		A...	Response after Non-Final Action			0	
28	05/20/2008		WIDS	Information Disclosure Statement (IDS) Filed			0	
27	03/28/2008	07/02/2007	MCTNF	Mail Non-Final Rejection	270		-1	
26	03/25/2008		CTNF	Non-Final Rejection			0	
21	03/17/2008		MPTDI-1	Mail-Petition Decision - Dismissed			0	
20	03/17/2008		PTDI-1	Petition Decision - Dismissed			0	
19	11/28/2007		PET.	Petition Entered			0	
18	11/07/2007		C.AD	Correspondence Address Change			0	
17	10/05/2007		DOCK	Case Docketed to Examiner in GAU			0	
16	10/05/2007		DOCK	Case Docketed to Examiner in GAU			0	

25	07/17/2007	IDSC	Information Disclosure Statement considered	0
15	07/17/2007	WIDS	Information Disclosure Statement (IDS) Filed	0
12	03/08/2007	A.PE	Preliminary Amendment	0
11	11/30/2006	DOCK	Case Docketed to Examiner in GAU	0
10	09/30/2006	DOCK	Case Docketed to Examiner in GAU	0
9	09/10/2006	DOCK	Case Docketed to Examiner in GAU	0
13	09/01/2006	WIDS	Information Disclosure Statement (IDS) Filed	0
8	05/24/2006	WROIPE	Application Return from OIPE	0
7	05/24/2006	COMP	Application Is Now Complete	0
6	05/24/2006	ROIPE	Application Return TO OIPE	0
4	05/24/2006	COMP	Application Is Now Complete	0
5	05/23/2006	OIPE	Application Dispatched from OIPE	0
3	05/12/2006	L194	Cleared by OIPE CSR	0
2	05/06/2006	SCAN	IFW Scan & PACR Auto Security Review	0
1	05/02/2006	IEXX	Initial Exam Team nn	0

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Patent No. : 8078958 B2
Application No.: 11/415239
Inventor(s) : Cottrille, et al.
Issued : December 13, 2011
Attorney Docket No.: MS#130669.02 (5470.1)

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 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this matter, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1. 17(i) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: 571-273-0025
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Tasneem Siddiqui
For Mary Diggs (Supervisor)
Decisions & Certificates of Correction Branch
(703) **756-1593** or (703) 756-1814
Date: 03/09/2012

Address: Robert M. Bain
SENNIGER POWERS LLP
100 North Broadway, 17th Floor
St. Louis, Missouri 63102

/ts

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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SENNIGER POWERS LLP (MSFT)
100 NORTH BROADWAY
17TH FLOOR
ST. LOUIS MO 63102

MAILED
APR 17 2012
OFFICE OF PETITIONS

In re Patent No. 8,078,958 :

Issue Date: December 13, 2011 :

Application No. 11/415,239 : ON PETITION

Filed: May 1, 2006 :

Attorney Docket No. MS#130669.02 (5470.1)

This is a decision on the petition filed March 21, 2012, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **granted**.

The petition fee of $130.00 will be charged to deposit account 19-1345.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3222. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The file is being forwarded to the Certificate of Correction Branch for issuance of the requested Certificate of Correction.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

[1] See *Official Gazette* of June 22, 2004.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

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APR 29 2011
OFFICE OF PETITIONS

JOHN S. PRATT, ESQ
KILPATRICK TOWNSEND & STOCKTON LLP
1100 PEACHTREE STREET
SUITE 2800
ATLANTA, GA 30309

In re Patent No. 7,827,985	:	
Issue Date: November 9, 2010	:	
Application No. 11/415,324	:	ON PETITION
Filed: May 1, 2006	:	
Attorney Docket No.: 62037-388215	:	

This is a decision on the petition under 37 CFR1.183, filed March 10, 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. This is also a decision on the request to reprint the first of the Letters Patent.

The request to correct the assignee data is **GRANTED**.

Petitioner is advised that it is the practice of the U. S. Patent and Trademark Office (USPTO) to issue a certificate of correction to correct an error on the part of an application in those cases where the assignee or attorney data is incorrect or was inadvertently not provided at the time of payment of the issue fee or the inventor's name is misspelled or otherwise incorrect. Note 37 CFR 1.323 and MPEP 1482 (35 U.S.C. 255), which 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 and a showing has been made that such mistake occurred in good faith, the Commissioner may, upon payment of the required fee, issue a certificate of correction, if the correction does not involve such changes in the patent as would constitute new matter or would require re-examination. Such patent, together with the certificate, shall have the same effect and operation in law on the trial of actions for causes thereafter arising as if the same had been originally issued in such correct form."

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[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

Since the desired correction of the assignee's name can be effected by way of a certificate of correction, the request to reprint the front page of the Letters Patent is **DISMISSED**.

It is noted that, while the requisite fee is $130, a fee of $400 was paid for treatment of this petition. Accordingly, the difference of $270 is being credited back to counsel's credit card.

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 (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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MAILED

AUG 1 1 2010

OFFICE OF PETITIONS

In re Application of :
Jes Lysgaard Pedersen :
Application No. 11/415,353 : DECISION ON PETITION
Filed: April 29, 2006 :
Attorney Docket No. :

This is a decision on the petition, filed January 14, 2010, which is being treated as a renewed 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."

Applicant states "on January 9, 2008, the PTO issued a second office action again alleging abandonment. This second office action contained the same grounds for alleged abandonment as did the first office action, which of course the PTO had later rescinded. This second office action clearly failed to consider the October 30, 2007, order rescinding the alleged abandonment."

35 U.S.C. 133 Time for prosecuting application states "Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Director in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Director that such delay was unavoidable."

Therefore, whether or not the second Office action was the same as the first, it is the applicant's responsibility to either timely traverse or comply with the requirement. See 37 CFR 1.135.

Petitioner should consider filing a petition under 37 CFR 1.137(b) stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned

application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the $810 petition fee.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By facsimile: **(571) 273-8300**
Attn: Office of Petitions

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

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NT Patent Law
6039 E. Grant Rd.
Tucson, AZ 85712

MAILED

SEP 30 2010

OFFICE OF PETITIONS

In re Application of :
Gregory James Charles :
Application No. 11/415,471 : DECISION ON PETITION
Filed: May 2, 2006 :
Atty Docket No.: INVT 10.088 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 23, 2010, to revive the above-identified application.

The petition is **DISMISSED.**

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed December 17, 2007, 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 17, 2008. A Notice of Abandonment was mailed June 28, 2008.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional

information. *See* MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item (3).

There are three periods to be considered during the evaluation of a petition under 37 CFR 1.137(b):

(1) the delay in reply that originally resulted in the abandonment;

(2) the delay in filing an initial petition pursuant to 37 CFR 1.137(b) to revive the application; and

(3) the delay in filing a grantable petition pursuant to 37 CFR 1.137(b) to revive the application.

Currently, the delay has not been shown to the satisfaction of the Director to be unintentional for periods (1) and (2).

As to Period (1):

The patent statute at 35 U.S.C. § 41(a)(7) authorizes the Director to revive an "unintentionally abandoned application." The legislative history of Public Law 97-247 reveals that the purpose of 35 U.S.C. § 41(a)(7) is to permit the Office to have more discretion than in 35 U.S.C. §§ 133 or 151 to revive abandoned applications in appropriate circumstances, but places a limit on this discretion, stating that "[u]nder this section a petition accompanied by either a fee of $500 or a fee of $50 **would not be granted where the abandonment** or the failure to pay the fee for issuing the patent **was intentional** as opposed to being unintentional or unavoidable." [emphasis added]. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6-7 (1982), *reprinted in* 1982 U.S.C.C.A.N. 770-71. The revival of an intentionally abandoned application is antithetical to the meaning and intent of the statute and regulation.

35 U.S.C. § 41(a)(7) authorizes the Director to accept a petition "for the revival of an unintentionally abandoned application for a patent." As amended December 1, 1997, 37 CFR 1.137(b)(3) provides that a petition under 37 CFR 1.137(b) must be accompanied by a statement that the delay was unintentional, but provides that "[t]he Commissioner may require additional information where there is a question whether the delay was unintentional." Where, as here, there is a question whether the initial delay was unintentional, the petitioner must meet the

burden of establishing that the delay was unintentional within the meaning of 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b). *See* In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989); 37 CFR 1.137(b). Here, in view of the inordinate delay (over two years) in resuming prosecution, there is a question whether the entire delay was unintentional. Petitioner should note that the issue is not whether some of the delay was unintentional by any party; rather, the issue is whether the entire delay has been shown to the satisfaction of the Director to be unintentional. As petitioner was not associated with this case at the time of abandonment, the statement of unintentional delay by Quan Nguyen, who was not the counsel at record at the time of abandonment, is not persuasive.

The question under 37 CFR 1.137(b) for period (1) is whether the delay on the part of the party having the right or authority to reply to avoid abandonment (or not reply) was unintentional. Accordingly, any renewed petition must clearly identify the party having the right to reply to avoid abandonment on March 18, 2008. That party, in turn must explain what effort(s) was made to further reply to the outstanding Office action and, further, why no reply was filed. If no effort was made to further reply, then that party must explain why the delay in this application does not result from a deliberate course of action (or inaction). As the courts have made clear, it is pointless for the USPTO to revive a long abandoned application without an adequate showing that the delay did not result from a deliberate course of action. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005); Lumenyte Int'l Corp. v. Cable Lite Corp., Nos. 96-1011, 96-1077, 1996 U.S. App. LEXIS 16400, 1996 WL 383927 (Fed. Cir. July 9, 1996) (unpublished) (patents held unenforceable due to a finding of inequitable conduct in submitting an inappropriate statement that the abandonment was unintentional).

As to Period (2):

Likewise, where the applicant deliberately chooses not to seek or persist in seeking the revival of an abandoned application, or where the applicant deliberately chooses to delay seeking the revival of an abandoned application, the resulting delay in seeking revival of the abandoned application cannot be considered as "unintentional" within the meaning of 37 CFR 1.137(b). *See* MPEP 711.03(c).

The language of both 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b) are clear and unambiguous, and, furthermore, without qualification. That is, the delay in filing the reply during prosecution, as well as in filing the petition seeking revival, must have been, without qualification, "unintentional" for the reply to now be accepted on petition. The Office requires that the entire delay be at least unintentional as a prerequisite to revival of an abandoned application to prevent abuse and injury to the public. *See* H.R. Rep. No. 542, 97th Cong., 2d Sess. 7 (1982), reprinted in 1982 U.S.C.C.A.N. 771 ("[i]n order to prevent abuse and injury to the public the Commissioner . . . could require applicants to act promptly after becoming aware of the abandonment"). The December 1997 change to 37 CFR 1.137 did not create any new right to overcome an intentional delay in seeking revival, or in renewing an attempt at seeking revival, of an abandoned application. *See* Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53160 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 87 (October 21, 1997), which clearly stated that any protracted delay (here, over two years) could trigger, as here, a request for additional information. As the courts have since made clear, a protracted delay in seeking revival, as here, requires a petitioner's detailed explanation seeking to excuse the delay as opposed to USPTO acceptance of a general allegation of unintentional delay. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633, at 1637-8 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005) at *21-*23. Statements are required from any and all responsible person(s) having firsthand knowledge of the circumstances surrounding the protracted delay, after the abandonment date, in seeking revival.

As noted in MPEP 711.03(c)(II), subsection D, in instances in which such petition was not filed within 1 year of the date of abandonment of the application, applicants should include:

> (A) the date that the applicant first became aware of the abandonment of the application; and
> (B) a showing as to how the delay in discovering the abandoned status of the application occurred despite the exercise of due care or diligence on the part of the applicant.

In either instance, applicant's failure to carry the burden of proof to establish that the "entire" delay was "unavoidable" or "unintentional" may lead to the denial of a petition under 37 CFR 1.137(b), regardless of the circumstances that originally

resulted in the abandonment of the application. *See also* New York University v. Autodesk, 2007 U.S. DIST LEXIS, U.S.District LEXIS 50832, *10 -*12 (S.D.N.Y. 2007)(protracted delay in seeking revival undercuts assertion of unintentional delay).

Further correspondence with respect to this matter should be delivered through one of the following mediums:

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By fax: (571) 273-8300
ATTN: Office of Petitions

By Internet: EFS-Web[1]

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] www.uspto.gov/ebc/efs help.html (for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)

UNITED STATES DEPARTMENT OF COMMERCE
COMMISSIONER FOR PATENTS
P. O. BOX 1450
ALEXANDRIA, VA 22313-1450

Date	: 5/10/2011
Patent No.	: 7,893,229 B2
Serial No.	: 11/415,484
Inventor(s)	: Ferrari et al.
Issue Date	: February 22, 2011
Title	: **PEPTIDES COMPRISING REPETITIVE UNITS OF AMINO ACIDS AND DNA SEQUENCES ENCODING THE SAME**
Doc./File No.	: **067504-5014-US14**

Re: Consideration for Certificate of Correction

Consideration has been given your request for a certificate of correction, for the above-identified patent under the provisions of Rule 1.322.

Respecting the alleged error(s) in your request, it is the practice to exclude words such as "A", "IMPROVED", "IMPROVEMENTS IN," "NEW", or "NOVEL" as the first word in the title of the invention. Therefore, no correction is in order here under Rule 1.322 or 1.323.

In view of the foregoing, your request is hereby denied.

Future correspondence concerning this matter should be filed and directed to Decisions & Certificates of Correction Branch.

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Mary F. Diggs, *Supervisor* (703) 756-1580
Decisions & Certificates of Correction Branch
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ECW