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CHARLES C. MCCLOSKEY
13321 N. OUTER 40 RD. STE. 100
TOWN & COUNTRY MO 63017

MAILED

SEP 21 2010

OFFICE OF PETITIONS

In re Application of	:	
Martin L. Mayse	:	
Application No. 11/466,604	:	ON PETITION
Filed: August 23, 2006	:	
Attorney Docket No. 171	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of January 8, 2009. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is April 9, 2009. The Notice of Abandonment was mailed September 3, 2009.

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

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

in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

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

This application is being referred to Technology Center AU 3767 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/01/10

TO SPE OF : ART UNIT 3738

SUBJECT : Request for Certificate of Correction for Appl. No.: 11466620 Patent No.: 7569715

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: _____

M. Eashoo

MARK EASHOO, PH.D.
SUPERVISORY PATENT EXAMINER
SPE

1767
Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Staple Here Only!

Printer's Trim Line

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO.: 7569715

DATED: August 4, 2009

FIRST NAMED INVENTOR: DAMS, RUDOLF J.

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

Column 2

Line 2; delete " Al " and insert - - Al, - -, therefor.

Column 12

Line 67; Claim 21, delete " —$(CH_2)_v$—$Si(Y')_w(Y)_{3-w}$.; " and insert - - —$(CH_2)_v$—$Si(Y')_w(Y)_{3-w}$; - -, therefor.

MAILING ADDRESS OF SENDER:

OFFICE OF INTELLECTUAL PROPERTY COUNSEL
3M INNOVATIVE PROPERTIES COMPANY
3M CENTER - P.O. BOX 33427
SAINT PAUL, MINNESOTA 55133-3427

PATENT NO. 7569715

No. of add'l copies: - 0-
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3M 851435v1

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MOTOROLA INC
600 NORTH US HIGHWAY 45
W4 - 39Q
LIBERTYVILLE IL 60048-5343

MAILED

SEP 14 2010

OFFICE OF PETITIONS

In re Application of	:	
Nakfour et al.	:	
Application No. 11/466,664	:	ON PETITION
Filed: August 23, 2006	:	
Attorney Docket No. CS30348RL	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed August 24, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and a Response to Final Office Action, including an Amendment, (2) the petition fee of $1620.00, and (3) a proper statement of unintentional delay.

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

This matter is being referred to Technology Center AU 2617 for processing of the Request for Continued Examination under 37 CFR 1.114 filed concurrently with the instant petition.

Liana Walsh
Petitions Examiner
Office of Petitions

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

MAILED
MAY 04 2011
OFFICE OF PETITIONS

In re Application of :
Tsukasa Kirisawa :
Application No.: 11/466,981 : ON PETITION
Filed: August 24, 2006 :
Attorney Docket No.: 3712174-911 :

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

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on April 22, 2011, cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The application is being referred to Technology Center AU 2622 for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement (IDS).

/SDB/
Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

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OCT 21 2010

OFFICE OF PETITIONS

Constellation Law Group, PLLC
P.O. Box 220
Tracyton, WA 98393

In re Application of Lines et al.	:	
Application No. 11/467,108	:	Decision on Petition
Filing Date: August 24, 2006	:	
Attorney Docket No. VF1-0011-US	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 19, 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 November 12, 2009, 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 February 13, 2010. A Notice of Abandonment was mailed May 19, 2010.

The instant petition requests revival of the application.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed,
(2) The petition fee,
(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.

As to item (1), the petition includes a reply to the outstanding non-final Office action.

As to item (2), the petition is accompanied by the required $810 petition fee.

As to item (3), to the extent any statement of delay in the petition varies from the exact language in 37 CFR 1.137(b)(3), the statement will be construed as the equivalent of the statement above.

If the entire delay from the date of abandonment, February 13, 2010, until May 19, 2010, was not unintentional, petitioner must notify the Office.

As to item (4), a terminal disclaimer is not necessary.

Petitioner has met the requirements to revive the application under 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

Technology Center Art Unit 3764 will be informed of the instant decision and the application will be further examined in due course.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

Constellation Law Group, PLLC
P.O. Box 220
Tracyton, WA 98393

In re Application of Lines et al. :
Application No. 11/467,108 :
Filing Date: August 24, 2006 :
Attorney Docket No. VF1-0011-US :

Decision on Petition

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-identified application became abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed August 31, 2011, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on December 2, 2011.

The instant petition requests revival of the application.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed,
(2) The petition fee, and
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.[1]

The petition satisfies the requirements of 37 CFR 1.137(b) in so far as petitioner has supplied (1) a reply in the form of payment of the issue fee and publication fee, (2) the required petition fee of $930, and (3) the required statement of unintentional delay. Therefore, the petition is granted and the application is revived.

[1] A terminal disclaimer is also necessary if the application is a design application or if the application was filed on or before June 8, 1995.

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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MAILED
MAY 20 2011
OFFICE OF PETITIONS

Bacoustics, LLC
5929 BAKER ROAD
SUITE 470
MINNETONKA MN 55345

In re Application of	:	
Eilaz Babaev	:	
Application No. 11/467,225	:	DECISION ON PETITION
Filed: August 25, 2006	:	
Attorney Docket No.	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 22, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed April 26, 2010, three (3) months 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 41.37(b). As no claim was allowed, the application became abandoned on June 27, 2010. See MPEP 1215.04. A Notice of Abandonment was mailed March 2, 2011.

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

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

This application is being referred to the Technology Center AU 3737 for appropriate action in the normal course of business for processing of the RCE received April 22, 2011.

/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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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/467,340	08/25/2006	Michael Braithwaite	59900-0103	3415

23309 7590 08/24/2011
Matthew J. Booth & Associates, PLLC
c/o CPA Global
P.O. Box 52050
900 Second Avenue South, Suite 1560
Minneapolis, MN 55402

EXAMINER
LEE, PING

ART UNIT	PAPER NUMBER
2614	

NOTIFICATION DATE	DELIVERY MODE
08/24/2011	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):

docketing@cpaglobal.com

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Matthew J. Booth & Associates, PLLC
c/o CPA Global
P.O. Box 52050
900 Second Avenue South, Suite 1560
Minneapolis MN 55402

In re application of	:	DECISION ON REQUEST TO
BRAITHWAITE et al.	:	PARTICIPATE IN PATENT
Serial No. 11/467,340	:	PROSECUTION HIGHWAY
Filed: 25 August 2006	:	PROGRAM AND
For: NETWORK SPEAKER FOR AN AUDIO	:	PETITION TO MAKE SPECIAL
NETWORK DISTRIBUTION SYSTEM	:	UNDER 37 CFR 1.102(a)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) program filed 11 August 2011..

The request and petition are **GRANTED**.

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 IPAU;

(2) Applicant must submit a copy of the allowable/patentable claim(s) from the IPAU application(s);

(3) All of the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the IPAU application(s); and

(4) Examination of the U.S. application has not begun;

(5) Applicant must submit a copy of all of the Office actions from each of the IPAU application(s);

(6) Applicant must submit:
   a. An IDS listing the documents cited by the IPAU examiner in the IPAU Office action(s) (unless already submitted in this application)
   b. Copies of documents except U.S. patents or U.S. patent application publications (unless already submitted in this application); and

Application No. 11/467,340

The request to participate in the PPH pilot program and petition comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

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.

Lee W. Young
TQAS
Technology Center 2600

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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AUG 02 2010

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

CANON U.S.A. INC. INTELLECTUAL PROPERTY DIVISION
15975 ALTON PARKWAY
IRVINE CA 92618-3731

In re Application of	:	
NAKAJIMA, HIROFUMI	:	DECISION ON REQUEST TO
Application No. 11/467,435	:	PARTICIPATE IN PATENT
Filed: August 25, 2006	:	PROSECUTION HIGHWAY
Attorney Docket No. 10034753US01	:	PROGRAM AND PETITION
	:	TO MAKE SPECIAL UNDER
	:	37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) program and the petition under 37 CFR 1.102(d), filed June 18, 2010, to make the above-identified application special.

The request and petition are **GRANTED**.

A grantable request to participate in the PPH program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the JPO application(s) along with an English translation thereof and a statement that the English translation is accurate;
(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s);
(4) Examination of the U.S. application has not begun;
(5) Applicant must submit a copy of all the office actions from each of the JPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;
(6) Applicant must submit an IDS listing the documents cited by the JPO examiner in the JPO office action along with copies of documents except U.S. patents or U.S. patent application publications.

The request to participate in the PPH program and petition comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Michael Horabik at 571-272-3068.

All other inquiries concerning the examination or status of the application should be directed to Patent Application Information Retrieval (PAIR) system.

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

/Michael Horabik/

Michael Horabik
Quality Assurance Specialist
Technology Center 2600
Communications

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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CARR & FERRELL LLP
120 CONSTITUTION DRIVE
MENLO PARK CA 94025

MAILED

OCT 24 2011

OFFICE OF PETITIONS

In re Application of
Michelle Fisher, et al.
Application No. 11/467,441
Filed: August 25, 2006
Attorney Docket No. PA5593US

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 11, 2011.

The request is **NOT APPROVED**.

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

A review of the file record indicates that Carr & Ferrell, 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 below-listed address until otherwise properly notified by 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: MICHELLE FISHER
2930 DOMINGO AVENUE
SUITE 123
BERKELEY, CA 94705

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BASF AKTIENGESELLSCHAFT
CARL-BOSCH STRASSE 38, 67056
LUDWIGSHAFEN
LUDWIGSHAFEN 69056 DE GERMANY

MAILED
AUG 09 2011
OFFICE OF PETITIONS

In re Application of	:	
BESWICK, et al	:	
Application No. 11/467,649	:	ON PETITION
Filed: August 28, 2006	:	
Attorney Docket No. 5271	:	

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

The petition is **GRANTED**.

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

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) 272-6735.

This application is being referred to Technology Center AU 1776 for appropriate action by the Examiner.

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

cc: GREG TUROCY
57TH FLOOR, 127 PUBLIC SQUARE
CLEVELAND, OH 44114

UNITED STATES PATENT AND TRADEMARK OFFICE

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KWONG, YUK HO HENRY
11/F, MINERVA HOUSE, 34 LYTTELTON ROAD
MID-LEVELS, HONG KONG
HONG KONG HK HONG KONG

MAILED

FEB 14 2011

OFFICE OF PETITIONS

In re Application of	:	
KWONG	:	
Application No. 11/467,653	:	ON PETITION
Filed: August 28, 2006	:	
Attorney Docket No.	:	

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

The petition is **DISMISSED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of March 5, 2010. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). *See* MPEP 711.03(c)(III)(A)(2). Since the amendment submitted does not *prima facie* place the application in condition for allowance (see attached Advisory Action), 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).

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

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

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450

Alexandria, VA 22313-1450

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

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

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

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

Attachment: Advisory Action

Advisory Action Before the Filing of an Appeal Brief	Application No. 11/467,653	Applicant(s) KWONG, HENRY YUK	
	Examiner Ashok Patel	Art Unit 2889	

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

THE REPLY FILED 29 December 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☐ The period for reply expires _____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) *21 and 30* 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: *20 and 26*.
   Claim(s) objected to: *22-25,31 and 32*.
   Claim(s) rejected: *21 and 30*.
   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: Status identifier of claims 22-29,31 and 32 is incorrect.

/Ashok Patel/
Primary Examiner, Art Unit 2889

UNITED STATES PATENT AND TRADEMARK OFFICE

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

KWONG, YUK HO HENRY
11/F, MINERVA HOUSE, 34 LYTTELTON ROAD
MID-LEVELS, HONG KONG
HONG KONG HK HONG KONG

MAILED

MAY 09 2011

OFFICE OF PETITIONS

In re Application of	:	
KWONG	:	
Application No. 11/467,653	:	ON PETITION
Filed: August 28, 2006	:	
Attorney Docket No.	:	

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 is **DISMISSED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of March 5, 2010. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). *See* MPEP 711.03(c)(III)(A)(2). Since the amendment submitted does not *prima facie* place the application in condition for allowance (see attached Advisory Action), 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).

Please Note: Any renewed petition <u>must</u> include the required reply as indicated above.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted.

The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

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

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

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

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

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

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

Attachment: Advisory Action

Advisory Action Before the Filing of an Appeal Brief	Application No. 11/467,653	Applicant(s) KWONG, HENRY YUK	
	Examiner Ashok Patel	Art Unit 2889	

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

THE REPLY FILED _____ FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

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

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

NOTICE OF APPEAL

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

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.
   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☒ Newly proposed or amended claim(s) *21 and 30* 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: *26-29*.
   Claim(s) objected to: *22-25,31 and 32*.
   Claim(s) rejected: *21 and 30*.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

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

REQUEST FOR RECONSIDERATION/OTHER

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

/Ashok Patel/
Primary Examiner, Art Unit 2889

Continuation of 13. Other: As to claims 21 and 30, the Examiner proposes to change the term "comprising the G3, G13, R17d or other electrical connector is" to --comprising G3, G13 or R17d is--. Note the Examiner proposes specifically to delete the term "the" before "G3" and insert the term "or between "G13" and "R17d".

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/24/11

TO SPE OF : ART UNIT 2884

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/467,670 Patent No.: 7723694

CofC mailroom date: 09/22/11

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

RoChaun Hardwick
Certificates of Correction Branch
703-756-1580

Thank You For Your Assistance

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

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

Comments: Applicant claimed priority as a Continuation of the PCT, not as a National Stage 371 filing. Therefor the priority information granted by the examiner is accurate.

David P. Porta — **SPE**

2884 — **Art Unit**

11/467670

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

Date: October 24, 2011
Patent No: 7,723,694
Inventor: FRACH ET. AL
Issued: May 25, 2010

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction in the above-identified patent.

Respecting, the alleged error on the title page in the claim for priority is denied. The SPE states the applicant claimed priority as a continuation of the PCT, not as a National Stage 371 filing. Therefor the priority information granted by the examiner is accurate.

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

RoChaun Hardwick
Mary Diggs, Supervisor
Decisions & Certificates
of Correction Branch
(571) 272-0470

PHILLIPS INTELLECTUAL PROPERTY &
STANDARDS
595 MINER ROAD
CLEVELAND, OH 44143

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/7/12

TO SPE OF : ART UNIT 2884

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/467,670 Patent No.: 7723694

CofC mailroom date: 02/27/12

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: Should the changes be made?

RoChaun Hardwick
Certificates of Correction Branch
571 272-0470

Thank You For Your Assistance

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

XApproved **All** changes apply.

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

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

Comments: _____

/David P. Porta/ 2884
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

DAUPHIN LAW OFFICES
Suite 365
9 Bartlett Street
Andover MA 01810

MAILED

SEP 13 2010

OFFICE OF PETITIONS

In re Application of	:	
Rory Keogh	:	
Application No. 11/467,913	:	DECISION ON PETITION
Filed: August 28, 2006	:	
Attorney Docket No. **100109-0003**	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, June 25, 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 26, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $810, and (3) a proper statement of unintentional delay. Accordingly, the reply to the non-final Office action of June 25, 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 3741 for appropriate action on the concurrently filed amendment.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

cc: **ROBERT A. HUISE**
801 CALIFORNIA ST.
MOUNTAIN VIEW CA 94041

UNITED STATES PATENT AND TRADEMARK OFFICE

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

TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS TX 75265

MAILED

SEP 16 2010

OFFICE OF PETITIONS

ON PETITION

In re Application of :
James F. SALZMAN :
Application No. 11/468,104 :
Filed: August 29, 2006 :
Attorney Docket No. TI 60902 :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed April 21, 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 above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed July 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 above-identified application became abandoned on October 3, 2009.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lacks item(s) (3). The instant renewed petition includes a statement that the entire delay from January 2, 2010 (last due date for submitting Applicants' responsive Amendment with maximum EOT) to April 21, 2010 was unintentional. However, no extension of time was requested so the due date for the reply was October 2, 2009.

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 should be directed to the undersigned at (571) 272-7099.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450

MAILED

DEC 27 2010

OFFICE OF PETITIONS

Texas Instruments Incorporated
P.O. Box 655474, M/S 3999
Dallas, Texas 75265

In re Application of
James F. SALZMAN
Application No. 11/468,104
Filed: 29 August 2006
Atty. Docket No. TI 60902

: DECISION GRANTING PETITION
: UNDER 37 CFR 1.137(b)

This is a decision on the renewed Petition under 37 CFR 1.137(b), filed 22 September 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 2 July 2009 ("outstanding Office action"), which set a shortened statutory period of reply of three (3) months. No reply was sent, and no extension of time under the provisions of 37 CFR 1.136(a) was obtained. The application thus became abandoned on 3 October 2009.

The renewed Petition satisfies the conditions for revival pursuant to 37 CFR 1.137(b), notably by including (1) a reply in the form of a Response to the outstanding Office action, (2) a petition fee of $1620.00, (3) a Statement that the entire delay, from 2 October 2009 to 22 September 2010, 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 required. The reply to the outstanding Office action is accepted as having been unintentionally delayed.

General inquiries relating to this decision should be directed to Robert DeWitty, Petitions Examiner, Office of Petitions (571-272-6051), or, if unavailable, the undersigned at 571-272-7099.

The application file will be referred to Technology Center Art Unit 2841 for further action on the filed Response.

David Bucci
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20101103

DATE : November 03, 2010

TO SPE OF : ART UNIT 3771

SUBJECT : Request for Certificate of Correction on Patent No.: 7,730,888

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:

/JUSTINE R YU/
Supervisory Patent Examiner.Art Unit 3771

UNITED STATES PATENT AND TRADEMARK OFFICE

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

INTERNATIONAL BUSINESS MACHINES CORPORATION
Richard Lau
IPLAW DEPARTMENT / Bldg 008-2
2455 SOUTH ROAD - MS P386
POUGHKEEPSIE NY 12601

MAILED
NOV 21 2011
OFFICE OF PETITIONS

In re Application of	:	
Casimer M. Decusatis, et al.	:	
Application No. 11/468,364	:	DECISION GRANTING PETITION
Filed: August 30, 2006	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. POU920060142US1	:	

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

The petition is **GRANTED**.

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

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

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

This application is being referred to Technology Center AU 2878 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

---

[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

WANG, HARTMANN & GIBBS
1301 DOVE STREET
SUITE 1050
NEWPORT BEACH CA 92660

MAILED

JUN 16 2011

OFFICE OF PETITIONS

In re Application of	:	
CHEN, LIANGNENG	:	
Application No. 11/468,406	:	NOTICE
Filed: 08/30/2006	:	
Attorney Docket No. SHANGHAI-001XX	:	

This is a Notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed May 23, 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.

This application is being referred to Technology Center Art Unit 3728.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3211.

/Christina Tartera Donnell/

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

PTO/SB/131 (01-10)
Approved for use through 02/28/2011. OMB 0651-0020
U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH**

Attorney Docket Number: LEAR43663PUS	Patent Number: 7661764
Filing Date (or 371(b) or (f) Date): Aug-30-2006	Issue Date: Feb-16-2010
First Named Inventor: GALBREATH, ASHFORD A.	
Title: VEHICLE SEAT ASSEMBLY HAVING A HARDNESS GRADIENT VIA "A" SURFACE INTRUSIONS AND/OR PROTRUSIONS	

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

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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BROOKS KUSHMAN P.C. / LEAR CORPORATION
1000 TOWN CENTER
TWENTY-SECOND FLOOR
SOUTHFIELD, MI 48075-1238

Mail Date: 08/19/2010

Applicant	: Asad S. Ali	: DECISION ON REQUEST FOR
Patent Number	: 7661764	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/468,469	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/30/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **121** 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
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Alexandria, VA 22313-1450
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MANNAVA & KANG, P.C.
11240 WAPLES MILL ROAD
SUITE 300
FAIRFAX VA 22030

MAILED
SEP 13 2010
OFFICE OF PETITIONS

In re Application of :
Varshneya, et al. :
Application No. 11/468,470 :
Filed: 30 August, 2006 :
Attorney Docket No. 1060.002 :

DECISION

This is a decision on the petition filed on 18 August, 2010, for revival of an application abandoned due to unavoidable delay pursuant to 37 C.F.R. §1.137(a) .

NOTE:

Petitioner has presented no showing of unavoidable delay. (*See*: the regulations at 37 C.F.R. §1.137(a) and the guidance in the Commentary at MPEP §711.03(c).)

The application does not appear to have gone abandoned under the control of Petitioner—thus, Petitioner appears not to be in a position to make a showing of unavoidable delay.

It appears that Petitioner's only alternative may be to properly file a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay under 37 C.F.R. §1.137(b).

The petition pursuant to 37 C.F.R. §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. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.137(a)."

This is **not** a final agency action within the meaning of 5 U.S.C. §704.

As to Allegation of
Unavoidable Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(a) are the petition and fee therefor, a reply, a proper showing of unavoidable delay under the regulation, and, where applicable, a terminal disclaimer and fee.

Petitioner does not appear to have satisfied—and may be unable to satisfy—the showing requirements (as to unavoidable delay) under the Rule.

Petitioners' attentions always are directed to the guidance in the Commentary at MPEP §711.03(c) as to the showing regarding unavoidable delay and a petition pursuant to 37 C.F.R. §1.137(a).

BACKGROUND

Petitioner failed to reply timely and properly to the non-final Office action mailed on 2 September, 2008, with reply due absent extension of time on or before 2 December, 2008.

The application went abandoned by operation of law after midnight 2 December, 2008,

The Office mailed the Notice of Abandonment on 18 March, 2009.

On 18 August, 2010, Petitioner filed, *inter alia*, a revocation/power of attorney, a petition with fee, averring unavoidable delay pursuant to 37 C.F.R. §1.137(a), with reply in the form of an amendment. It is noted that:

- The application does not appear to have gone abandoned under the control of Petitioner—moreover, Petitioner appears not to be in a position to make a showing of unavoidable delay.

- Petitioner filed a terminal disclaimer—for which there is no requirement—and sought to specify the term disclaimed, which is not proper; the disclaimer is not accepted and the fee is refunded via credit card—should Petitioner later find that the fee was not refunded Petitioner should make a request of the Office of Finance and provide therewith a copy of this decision.

- Applicant avers that he was unaware of the response time—which is statutory and about which there is no uncertainty—and that he required additional time to perform testing, which is not a determinant of the statutory response time.

It appears that Petitioner's only alternative may be to properly file a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay under 37 C.F.R. §1.137(b).

Petitioners' attentions always are directed to the guidance in the Commentary at MPEP §711.03(c) as to the showing regarding unavoidable delay and a petition pursuant to 37 C.F.R. §1.137(a).

Thus, it is noted that the guidance in the Commentary at MPEP §711.03(c)(II) for the showing required pursuant to 37 C.F.R. §1.137(a) provides in pertinent part:

***

...Unavoidable Delay

As discussed above, "unavoidable" delay is the epitome of "unintentional" delay. Thus, an intentional delay precludes revival under 37 C.F.R. §137(a) ("unavoidable" delay) or 37 C.F.R. §1.137(b) ("unintentional" delay). See Maldague, *10 USPQ2d at 1478.*

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).*

A delay resulting from an error (e.g., a docketing error) on the part of an employee in the performance of a clerical function may provide the basis for a showing of "unavoidable" delay, provided it is shown that:

(A)the error was the cause of the delay at issue;

(B)there was in place a business routine for performing the clerical function that could reasonably be relied upon to avoid errors in its performance; and
(C)the employee was sufficiently trained and experienced with regard to the function and routine for its performance that reliance upon such employee represented the exercise of due care.

See In re Egbers, *6 USPQ2d 1869, 1872 (Comm'r Pat. 1988),* rev'd on other grounds sub nom., Theodor Groz & Sohne & Ernst Bechert Nadelfabrik KG v. Quigg, *10 USPQ2d 1787 (D.D.C. 1988);* In re Katrapat, *6 USPQ2d 1863, 1867-68 (Comm'r Pat. 1988). For example, where an application becomes abandoned as a consequence of a change of correspondence address (the Office action being mailed to the old, uncorrected address and failing to reach the applicant in sufficient time to permit a timely reply) an adequate showing of "unavoidable" delay will require a showing that due care was taken to adhere to the requirement for prompt notification in each concerned application of the change of address (see MPEP § 601.03), and must include an adequate showing that a timely notification of the change of address was filed in the application concerned, and in a manner reasonably calculated to call attention to the fact that it was a notification of a change of address. The following do not constitute proper notification of a change in correspondence address:*

(A)the mere inclusion, in a paper filed in an application for another purpose, of an address differing from the previously provided correspondence address, without mention of the fact that an address change was being made;

(B)the notification on a paper listing plural applications as being affected (except as provided for under the Customer Number practice - see MPEP § 403); or

(C)the lack of notification, or belated notification, to the U.S. Patent and Trademark Office of the change in correspondence address.

Delay resulting from the lack of knowledge or improper application of the patent statute, rules of practice or the MPEP, however, does not constitute "unavoidable" delay. See Haines, *673 F. Supp. at 317, 5 USPQ2d at 1132;* Vincent v. Mossinghoff, *230 USPQ 621, 624 (D.D.C. 1985);* Smith v. Diamond, *209 USPQ 1091 (D.D.C. 1981);* Potter v. Dann, *201 USPQ 574 (D.D.C. 1978);* Ex parte Murray, *1891 Dec. Comm'r Pat. 130, 131 (1891). For example, as 37 C.F.R. 1.116 and 1.135(b) are manifest* that proceedings concerning an amendment after final rejection will not operate to avoid abandonment of the application in the absence of a timely and proper appeal, a delay is not "unavoidable"

when the applicant simply permits the maximum extendable statutory period for reply to a final Office action to expire while awaiting a notice of allowance or other action.

Likewise, as a "reasonably prudent person" would file papers or fees in compliance with 37 C.F.R. §1.8 or §1.10 to ensure their timely filing in the USPTO, as well as preserve adequate evidence of such filing, a delay caused by an applicant's failure to file papers or fees in compliance with 37 C.F.R. §1.8 and §1.10 does not constitute "unavoidable" delay. See *Krahn*, 15 USPQ2d at 1825. Finally, 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).

35 U.S.C. §133 and §151 each require a showing that the "delay" was "unavoidable," which requires not only a showing that the delay which resulted in the abandonment of the application was unavoidable, but also a showing of unavoidable delay until the filing of a petition to revive. See *In re Application of Takao*, 17 USPQ2d 1155 (Comm'r Pat. 1990).

The burden of continuing the process of presenting a grantable petition in a timely manner likewise remains with the applicant until the applicant is informed that the petition is granted. *Id.* at 1158. Thus, an applicant seeking to revive an "unavoidably" abandoned application must cause a petition under 37 C.F.R. §1.137(a) to be filed without delay (i.e., promptly upon becoming notified, or otherwise becoming aware, of the abandonment of the application).
An applicant who fails to file a petition under 37 C.F.R. §1.137(a) "promptly" upon becoming notified, or otherwise becoming aware, of the abandonment of the application will not be able to show 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(a) was unavoidable. The removal of the language in 37 C.F.R. §1.137(a) requiring that any petition thereunder be "promptly filed after the applicant is notified of, or otherwise becomes aware of, the abandonment" should **not** be viewed as: (A) permitting an applicant, upon becoming notified, or otherwise becoming aware, of the abandonment of the application, to delay the filing of a petition under 37 C.F.R. §1.137(a); or (B) changing (or modifying) the result in *In re Application of S*, 8 USPQ2d 1630 (Comm'r Pat. 1988), in which a petition under 37 C.F.R. §1.137(a) was denied due to the applicant's deliberate deferral in filing a petition under 37 C.F.R. § 1.137. An applicant who deliberately chooses to delay the filing of a petition under 37 C.F.R. §1.137 (as in *Application of S*, 8 USPQ2d at 1632) will not be able to show 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(a)] was unavoidable" or even make an appropriate 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."
>
> The dismissal or denial of a petition under 37 C.F.R. §1.137(a) does not preclude an applicant from obtaining relief pursuant to 37 C.F.R. 1. §137(b) on the basis of unintentional delay (unless the decision dismissing or denying the petition under 37 C.F.R. 1.137(a) indicates otherwise). In such an instance, a petition under 37 C.F.R. 1.137(b) may be filed accompanied by the fee set forth in 37 C.F.R. §1.17(m), the required reply, 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 any terminal disclaimer required by 37 C.F.R. §1.137(c). Form PTO/SB/61 or PTO/SB/61PCT may be used to file a petition for revival of an unavoidably abandoned application.
>
> ***

Petitioner clearly has failed to satisfy the requirements under the Rule and discussed above.

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).

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

[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).

> 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.[2]

Again, Petitioner's attentions are directed to the guidance in the Commentary at MPEP §711.03(c).

As to Allegations of
Unavoidable Delay

The requirements under 37 C.F.R. §1.137(a) are the petition and fee therefor, a reply, a proper showing of unavoidable delay under the regulation, and, where applicable, a terminal disclaimer and fee.

As of this writing it appears that Petitioner has failed to satisfy the requirements under the Rule.

CONCLUSION

Accordingly, the petition under 37 C.F.R. §1.137(a) is **dismissed**.

ALTERNATIVE VENUE

Should Petitioner wish to revive the application, Petitioner may wish to properly file a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay under 37 C.F.R. §1.137(b). (See http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c and http://www.uspto.gov/web/forms/sb0064.pdf)

A petition to revive on the grounds of unintentional delay must be filed promptly and such petition must be accompanied by the proper reply, the petition fee, 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 a terminal disclaimer and fee where appropriate. (The statement is in the form available online.)

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[2] 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).

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

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

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

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

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[3]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[3] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

In re Application of	:	
Varshneya, et al.	:	
Application No. 11/468,470	:	DECISION
Filed: 30 August, 2006	:	
Attorney Docket No. 1060.002	:	

This is a decision on the petition filed on 13 October, 2010, for revival of an application abandoned due to unavoidable delay pursuant to 37 C.F.R. §1.137(a) .

NOTE:

For the second time it is noted that:

- Petitioner has presented no showing of unavoidable delay. (*See*: the regulations at 37 C.F.R. §1.137(a) and the guidance in the Commentary at MPEP §711.03(c).)
- The application does not appear to have gone abandoned under the control of Petitioner—thus, Petitioner appears not to be in a position to make a showing of unavoidable delay.
- It appears that Petitioner's only alternative may be to properly file a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay under 37 C.F.R. §1.137(b).
- *Prior Counsel and/or Applicant/Co-inventor and/or Petitioner are cautioned that a failure to make promptly and properly the required showing required pursuant to 37 C.F.R. §1.137(a), or, in the alternative, to submit a grantable petition pursuant to 37 C.F.R. §1.137(b) and averring unintentional delay, may be considered indicia of a delay that is other than unintentional.*

The petition pursuant to 37 C.F.R. §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. Extensions of time under 37 C.F.R. §1.136(a) are permitted.

The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.137(a)."

This is **not** a final agency action within the meaning of 5 U.S.C. §704.

As to Allegation of
Unavoidable Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(a) are the petition and fee therefor, a reply, a proper showing of unavoidable delay under the regulation, and, where applicable, a terminal disclaimer and fee.

Petitioner does not appear to have satisfied—and may be unable to satisfy—the showing requirements (as to unavoidable delay) under the Rule.

Petitioners' attentions always are directed to the guidance in the Commentary at MPEP §711.03(c) as to the showing regarding unavoidable delay and a petition pursuant to 37 C.F.R. §1.137(a).

BACKGROUND

Petitioner failed to reply timely and properly to the non-final Office action mailed on 2 September, 2008, with reply due absent extension of time on or before 2 December, 2008.

The application went abandoned by operation of law after midnight 2 December, 2008.

The Office mailed the Notice of Abandonment on 18 March, 2009.

On 18 August, 2010, Petitioner filed, *inter alia*, a revocation/power of attorney, a petition with fee, averring unavoidable delay pursuant to 37 C.F.R. §1.137(a), with reply in the form of an amendment. Notably: the application appeared to have gone abandoned under the control of prior Counsel, and not Petitioner and, Petitioner appeared not to be in a position to make a showing of unavoidable delay; Petitioner filed a terminal disclaimer—for which there was no requirement—and sought to specify the term disclaimed, which is not proper; the disclaimer is not accepted and the fee is refunded via credit card—should Petitioner later find that the fee was not refunded Petitioner should make a request of the Office of Finance and provide therewith a copy of this decision; Applicant averred that he was unaware of the response time—which is statutory and about which there is no uncertainty—and that he required additional time to perform testing, which is not a determinant of the statutory response time. The petition was dismissed on September, 2010.

On 13 October, 2010, Petitioner re-advanced his petition, averring unavoidable delay pursuant to 37 C.F.R. §1.137(a) and complained that his petition should be "given full consideration on the merits" because, by inference, that was not done in the original decision. Given that Petitioner provided with the 13 October, 2010, petition no more showing than that submitted in the 18 August, 2010, petition, the following must be noted as to both submissions: the record reveals that:

- the date of abandonment is undisputed: 2 December, 2008;
- the date of the mailing of the Notice of Abandonment is undisputed: 18 March, 2009;
- there record is silent as to any claim by prior Counsel, Applicant/Co-inventor, or Petitioner that the 2 September, 2008, non-final Office action or the 18 March, 2009, Notice of Abandonment was not received, or that a timely and proper reply was filed following the 2 September, 2008, non-final Office action;
- no papers were filed by prior Counsel, Applicant/Co-inventor or Petitioner until 18 August, 2010—more than twenty (20) months after the date of abandonment;
- neither prior Counsel, nor Applicant/Co-inventor, nor Petitioner detailed for the Office a chronology of events between the date of abandonment and the date of submission of either the 18 August, 2010, petition or the 13 October, 2010, petition;
- the only information provided by anyone herein was from the Applicant/Co-inventor who stated, *inter alia*, that: "[b]allistic impact data was sought from the U.S. Army"; and "the degree of improvement shown for each type of testing [was] completely unexpected and represents significant improvements in the glass technology arts." (Pages 2 and 4, paragraphs 6 and 13, respectively, of the Declaration of Dr. Arun K. Varshneya (Applicant/Co-inventor).)

Contrary to Petitioner's contention, the Office did not fail to consider the statement(s) of Dr. Varshneya, it is that neither the 18 August, 2010, petition nor the 13 October, 2010, petition detailed what was unavoidable in the delay that commenced at the date of abandonment, 2 December, 2008, and extended thereafter more than twenty (20) months—and seventeen (17) months following the 18 March, 2009, Notice of Abandonment—before anyone filed any papers at all into the application.

The guidance in the Commentary at MPEP §711.03(c)(II) sets forth the showing required pursuant to 37 C.F.R. §1.137(a).

Prior Counsel and/or Applicant/Inventor and/or Petitioner appeared not to have considered and satisfied those requirements on submission of the 18 August, 2010, petition.

The Office inserted that guidance into the 13 September, 2010, decision for the ease of reference of Petitioner (as it does once again herein).

Nonetheless, Applicant/Inventor and/or Petitioner appeared not to have considered and satisfied those requirements on submission of the 13 October, 2010, petition.

Prior Counsel and/or Applicant/Co-inventor and/or Petitioner are cautioned that a failure to make promptly and properly the required showing required pursuant to 37 C.F.R. §1.137(a), or, in the alternative, to submit a grantable petition pursuant to 37 C.F.R. §1.137(b) and averring unintentional delay, may be considered indicia of a delay that is other than unintentional.

It appears that Petitioner's only alternative may be to properly file a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay under 37 C.F.R. §1.137(b).

Petitioners' attentions always are directed to the guidance in the Commentary at MPEP §711.03(c) as to the showing regarding unavoidable delay and a petition pursuant to 37 C.F.R. §1.137(a).

Thus, it is noted that the guidance in the Commentary at MPEP §711.03(c)(II) for the showing required pursuant to 37 C.F.R. §1.137(a) provides in pertinent part:

> ***
>
> **...Unavoidable Delay**
>
> *As discussed above, "unavoidable" delay is the epitome of "unintentional" delay. Thus, an intentional delay precludes revival under 37 C.F.R..§137(a) ("unavoidable" delay) or 37 C.F.R. §1.137(b) ("unintentional" delay). See* Maldague, *10 USPQ2d at 1478.*
>
> *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).*

A delay resulting from an error (e.g., a docketing error) on the part of an employee in the performance of a clerical function may provide the basis for a showing of "unavoidable" delay, provided it is shown that:

> *(A)the error was the cause of the delay at issue;*
>
> *(B)there was in place a business routine for performing the clerical function that could reasonably be relied upon to avoid errors in its performance; and*
> *(C)the employee was sufficiently trained and experienced with regard to the function and routine for its performance that reliance upon such employee represented the exercise of due care.*

See In re Egbers, *6 USPQ2d 1869, 1872 (Comm'r Pat. 1988),* rev'd on other grounds sub nom., Theodor Groz & Sohne & Ernst Bechert Nadelfabrik KG v. Quigg, *10 USPQ2d 1787 (D.D.C. 1988);* In re Katrapat, *6 USPQ2d 1863, 1867-68 (Comm'r Pat. 1988). For example, where an application becomes abandoned as a consequence of a change of correspondence address (the Office action being mailed to the old, uncorrected address and failing to reach the applicant in sufficient time to permit a timely reply) an adequate showing of "unavoidable" delay will require a showing that due care was taken to adhere to the requirement for prompt notification in each concerned application of the change of address (see MPEP § 601.03), and must include an adequate showing that a timely notification of the change of address was filed in the application concerned, and in a manner reasonably calculated to call attention to the fact that it was a notification of a change of address. The following do not constitute proper notification of a change in correspondence address:*

> *(A)the mere inclusion in a paper filed in an application for another purpose, of an address differing from the previously provided correspondence address, without mention of the fact that an address change was being made;*
>
> *(B)the notification on a paper listing plural applications as being affected (except as provided for under the Customer Number practice - see MPEP § 403); or*

(C)the lack of notification, or belated notification, to the U.S. Patent and Trademark Office of the change in correspondence address.

Delay resulting from the lack of knowledge or improper application of the patent statute, rules of practice or the MPEP, however, does not constitute "unavoidable" delay. See Haines, *673 F. Supp. at 317, 5 USPQ2d at 1132;* Vincent v. Mossinghoff, *230 USPQ 621, 624 (D.D.C. 1985);* Smith v. Diamond, *209 USPQ 1091 (D.D.C. 1981);* Potter v. Dann, *201 USPQ 574 (D.D.C. 1978);* Ex parte Murray, *1891 Dec. Comm'r Pat. 130, 131 (1891). For example, as 37 C.F.R. 1.116 and 1.135(b) are manifest* that proceedings concerning an amendment after final rejection will not operate to avoid abandonment of the application in the absence of a timely and proper appeal, a delay is not "unavoidable" when the applicant simply permits the maximum extendable statutory period for reply to a final Office action to expire while awaiting a notice of allowance or other action.

Likewise, as a "reasonably prudent person" would file papers or fees in compliance with 37 C.F.R. §1.8 or §1.10 to ensure their timely filing in the USPTO, as well as preserve adequate evidence of such filing, a delay caused by an applicant's failure to file papers or fees in compliance with 37 C.F.R. §1.8 and §1.10 does not constitute "unavoidable" delay. See *Krahn*, 15 USPQ2d at 1825. Finally, 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).

35 U.S.C. §133 and §151 each require a showing that the "delay" was "unavoidable," which requires not only a showing that the delay which resulted in the abandonment of the application was unavoidable, but also a showing of unavoidable delay until the filing of a petition to revive. See *In re Application of Takao*, 17 USPQ2d 1155 (Comm'r Pat. 1990).

The burden of continuing the process of presenting a grantable petition in a timely manner likewise remains with the applicant until the applicant is informed that the petition is granted. *Id.* at 1158. Thus, an applicant seeking to revive an "unavoidably" abandoned application must cause a petition under 37 C.F.R. §1.137(a) to be filed without delay (i.e., promptly upon becoming notified, or otherwise becoming aware, of the abandonment of the application).
An applicant who fails to file a petition under 37 C.F.R. §1.137(a) "promptly" upon becoming notified, or otherwise becoming aware, of the abandonment of the application will not be able to show 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(a) was unavoidable. The removal of the language in 37 C.F.R. §1.137(a) requiring that any petition thereunder be "promptly filed after the applicant is notified of, or otherwise becomes aware of, the abandonment" should **not** be viewed as: (A) permitting an

applicant, upon becoming notified, or otherwise becoming aware, of the abandonment of the application, to delay the filing of a petition under 37 C.F.R. §1.137(a); or (B) changing (or modifying) the result in *In re Application of S*, 8 USPQ2d 1630 (Comm'r Pat. 1988), in which a petition under 37 C.F.R. §1.137(a) was denied due to the applicant's deliberate deferral in filing a petition under 37 C.F.R. § 1.137. An applicant who deliberately chooses to delay the filing of a petition under 37 C.F.R. §1.137 (as in *Application of S*, 8 USPQ2d at 1632) will not be able to show 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(a)] was unavoidable" or even make an appropriate 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."

The dismissal or denial of a petition under 37 C.F.R. §1.137(a) does not preclude an applicant from obtaining relief pursuant to 37 C.F.R. 1. §137(b) on the basis of unintentional delay (unless the decision dismissing or denying the petition under 37 C.F.R. 1.137(a) indicates otherwise). In such an instance, a petition under 37 C.F.R. 1.137(b) may be filed accompanied by the fee set forth in 37 C.F.R. §1.17(m), the required reply, 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 any terminal disclaimer required by 37 C.F.R. §1.137(c). Form PTO/SB/61 or PTO/SB/61PCT may be used to file a petition for revival of an unavoidably abandoned application.

***

Petitioner clearly has failed to satisfy the requirements under the Rule and discussed above.

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]

[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).

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).

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.[2]

Again, Petitioner's attentions are directed to the guidance in the Commentary at MPEP §711.03(c).

As to Allegations of Unavoidable Delay

The requirements under 37 C.F.R. §1.137(a) are the petition and fee therefor, a reply, a proper showing of unavoidable delay under the regulation, and, where applicable, a terminal disclaimer and fee.

As of this writing it appears that Petitioner has failed to satisfy the requirements under the Rule.

CONCLUSION

Accordingly, the petition under 37 C.F.R. §1.137(a) is **dismissed**.

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[2] 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).

ALTERNATIVE VENUE

Should Petitioner wish to revive the application, Petitioner may wish to properly file a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay under 37 C.F.R. §1.137(b). (See: http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c and http://www.uspto.gov/web/forms/sb0064.pdf)

A petition to revive on the grounds of unintentional delay must be filed promptly and such petition must be accompanied by the proper reply, the petition fee, 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 a terminal disclaimer and fee where appropriate. (The statement is in the form available online.)

Once again, prior Counsel and/or Applicant/Co-inventor and/or Petitioner are cautioned that a failure to make promptly and properly the required showing required pursuant to 37 C.F.R. §1.137(a), or, in the alternative, to submit a grantable petition pursuant to 37 C.F.R. §1.137(b) and averring unintentional delay, may be considered indicia of a delay that is other than unintentional.

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

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

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

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

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[3]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[3] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MANNAVA & KANG, P.C.
11240 WAPLES MILL ROAD
SUITE 300
FAIRFAX VA 22030

MAILED
JAN 18 2011
OFFICE OF PETITIONS

In re Application of :
Varshneya, et al. :
Application No. 11/468,470 :
Filed: 30 August, 2006 :
Attorney Docket No. 1060.002 :

DECISION

This is a decision on the petition filed on 14 January, 2011, for revival of an application abandoned due to unavoidable delay pursuant to 37 C.F.R. §1.137(a), alternatively for revival of an application abandoned due to unintentional delay pursuant to 37 C.F.R. §1.137(b).

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

As to Allegation of
Unavoidable Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(a) are the petition and fee therefor, a reply, a proper showing of unavoidable delay under the regulation, and, where applicable, a terminal disclaimer and fee.

Petitioner does not appear to have satisfied the showing requirements as to unavoidable delay under the Rule.

Petitioners' attentions always are directed to the guidance in the Commentary at MPEP §711.03(c) as to the showing regarding unavoidable delay and a petition pursuant to 37 C.F.R. §1.137(a).

As to Allegation 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/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) as to the showing regarding unavoidable delay and a petition pursuant to 37 C.F.R. §1.137(a).

BACKGROUND

Petitioner failed to reply timely and properly to the non-final Office action mailed on 2 September, 2008, with reply due absent extension of time on or before 2 December, 2008.

The application went abandoned by operation of law after midnight 2 December, 2008.

The Office mailed the Notice of Abandonment on 18 March, 2009.

On 18 August, 2010, Petitioner filed, *inter alia*, a revocation/power of attorney, a petition with fee, averring unavoidable delay pursuant to 37 C.F.R. §1.137(a), with reply in the form of an amendment. Notably: the application appeared to have gone abandoned under the control of prior Counsel, and not Petitioner and, Petitioner appeared not to be in a position to make a showing of unavoidable delay; Petitioner filed a terminal disclaimer—for which there was no requirement—and sought to specify the term disclaimed, which is not proper; the disclaimer is not accepted and the fee is refunded via credit card—should Petitioner later find that the fee was not refunded Petitioner should make a request of the Office of Finance and provide therewith a copy of this decision; Applicant averred that he was unaware of the response time—which is statutory and about which there is no uncertainty—and that he required additional time to perform testing, which is not a determinant of the statutory response time. The petition was dismissed on September, 2010.

On 13 October, 2010, Petitioner re-advanced his petition, averring unavoidable delay pursuant to 37 C.F.R. §1.137(a) and complained that his petition should be "given full consideration on the merits" because, by inference, that was not done in the original decision. Given that Petitioner provided with the 13 October, 2010, petition no more showing than that submitted in the 18 August, 2010, petition, it was noted as to both submissions that the record revealed that: the 2 December, 2008, date of abandonment was undisputed; the 18 March, 2009, date of the mailing of the Notice of Abandonment was undisputed; the record was silent as to any claim by prior Counsel, Applicant/Co-inventor, or Petitioner that either the 2 September, 2008, non-final Office action or the 18 March, 2009, Notice of Abandonment was not received, or that a timely and proper reply was filed following the 2 September, 2008, non-final Office action. Moreover, no papers were filed by prior Counsel, Applicant/Co-inventor or Petitioner until 18 August, 2010—more than twenty (20) months after the date of abandonment; neither prior Counsel, nor Applicant/Co-inventor, nor Petitioner detailed for the Office a chronology of events between the date of abandonment and the date of submission of either the 18 August, 2010, petition or the 13 October, 2010, petition; and the only information provided by anyone herein was from the Applicant/Co-inventor who stated, *inter alia*, that: "[b]allistic impact data was sought from the U.S. Army"; and "the degree of improvement shown for each type of testing [was] completely

unexpected and represents significant improvements in the glass technology arts." (Pages 2 and 4, paragraphs 6 and 13, respectively, of the Declaration of Dr. Arun K. Varshneya (Applicant/Co-inventor).) Thus, contrary to Petitioner's contention, the Office did not fail to consider the statement(s) of Dr. Varshneya. Rather, neither the 18 August, 2010, petition nor the 13 October, 2010, petition satisfactorily detailed what was unavoidable in the delay that commenced at the date of abandonment, 2 December, 2008, and extended thereafter more than twenty (20) months—and seventeen (17) months following the 18 March, 2009, Notice of Abandonment—before anyone filed any papers at all into the application. The petition was dismissed on 20 December, 2010.

On 14 January, 2011, Petitioner again re-advanced his petition, averring unavoidable delay pursuant to 37 C.F.R. §1.137(a), but failed to set forth a proper showing of unavoidable delay (contrary to the requirements set forth in the 13 September, 2010, and the 20 December, 2010, dismissals), along with the statement of the inventor, inter alia, that:

- he did not have proper testing facilities;
- he was notified of the 2 September, 2008, Office action, but nonetheless was informed that the application would go abandoned "sometime before <u>or after 18</u> March, 2009" and that his "prior counsel, Mr. Paul Serbinowski, has indicated in an email to [the inventor] dated June 1, 2010, that no official notice of abandonment was received from the U.S. PTO (sic) at his law office" (emphasis supplied);
- "the earliest date of which [the inventor knew that he] was clearly awae that the Application had in fact been abandoned was through viewing public PAIR data regarding the Application on May 28, 2010"; and
- "[a]t that time, on May 28, 2010, [the inventor] had already begun several efforts to obtain evidence for a declaration to show unexpected results."

If the inventor/applicant was not aware, most certainly prior Counsel was—as must be current Counsel/Petitioner—that an application was abandoned by operation of law upon the failure of an applicant to reply timely and properly within either the shortened statutory period in the absence of an extension of time or the statutory period with a proper extension of time. This is not hidden information. Moreover, that the inventor/applicant was undertaking "efforts to obtain evidence for a declaration to show unexpected results" at a time two or more months after expiration of the maximum statutory period—for which period inventor/applicant had failed to obtain an extension of time—is not a demonstration of diligence in the fashion foreseen in *Ex parte Pratt*.[1]

[1] *Ex parte Pratt*, 1887 Dec. Comm'r Pat. 31, 32-33 (1887).

On 14 January, 2011, Petitioner also submitted (with fee) a petition averring unintentional delay pursuant to 37 C.F.R. §1.137(b), with a statement of unintentional delay by Petitioner, who also pointed to the prior-filed reply in the form of an amendment.

The guidance in the Commentary at MPEP §711.03(c)(II) sets forth the showing required pursuant to 37 C.F.R. §1.137(a).[2]

---

[2] The guidance in the Commentary at MPEP §711.03(c)(II) for the showing required pursuant to 37 C.F.R. §1.137(a) provides in pertinent part:

***

...Unavoidable Delay

As discussed above, "unavoidable" delay is the epitome of "unintentional" delay. Thus, an intentional delay precludes revival under 37 C.F.R..§137(a) ("unavoidable" delay) or 37 C.F.R. §1.137(b) ("unintentional" delay). See Maldague, *10 USPQ2d at 1478.*

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).*

A delay resulting from an error (e.g., a docketing error) on the part of an employee in the performance of a clerical function may provide the basis for a showing of "unavoidable" delay, provided it is shown that:

> *(A)the error was the cause of the delay at issue;*
>
> *(B)there was in place a business routine for performing the clerical function that could reasonably be relied upon to avoid errors in its performance; and*
> *(C)the employee was sufficiently trained and experienced with regard to the function and routine for its performance that reliance upon such employee represented the exercise of due care.*

See In re Egbers, *6 USPQ2d 1869, 1872 (Comm'r Pat. 1988),* rev'd on other grounds sub nom., Theodor Groz & Sohne & Ernst Bechert Nadelfabrik KG v. Quigg, *10 USPQ2d 1787 (D.D.C. 1988);* In re Katrapat, *6 USPQ2d 1863, 1867-68 (Comm'r Pat. 1988). For example, where an application becomes abandoned as a consequence of a change of correspondence address (the Office action being mailed to the old, uncorrected address and failing to reach the applicant in sufficient time to permit a timely reply) an adequate showing of "unavoidable" delay will require a showing that due care was taken to adhere to the requirement for prompt notification in each concerned application of the change of address (see MPEP § 601.03), and must include an adequate showing that a timely notification of the change of address was filed in the application concerned, and in a manner reasonably calculated to call attention to the fact that it was a notification of a change of address. The following do not constitute proper notification of a change in correspondence address:*

> *(A)the mere inclusion, in a paper filed in an application for another purpose, of an address differing from the previously provided correspondence address, without mention of the fact that an address change was being made;*
>
> *(B)the notification on a paper listing plural applications as being affected (except as provided for under the Customer Number practice - see MPEP § 403); or*
>
> *(C)the lack of notification, or belated notification, to the U.S. Patent and Trademark Office of the change in correspondence address.*

Prior Counsel and/or Applicant/Inventor and/or Petitioner appeared not to have considered and satisfied those requirements.

The guidance in the Commentary at MPEP §711.03(c)(II) also sets forth the showing required pursuant to 37 C.F.R. §1.137(b).

The record (including the petition filed on 14 January, 2011) does not necessitate a finding that the delay between midnight 2 December, 2008 (the date of abandonment), and 14 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 inventor/applicant Dr. Arun K. Varshneya and Petitioner/Counsel Patrick R. Delaney

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Delay resulting from the lack of knowledge or improper application of the patent statute, rules of practice or the MPEP, however, does not constitute "unavoidable" delay. See Haines, *673 F. Supp. at 317, 5 USPQ2d at 1132;* Vincent v. Mossinghoff, *230 USPQ 621, 624 (D.D.C. 1985);* Smith v. Diamond, *209 USPQ 1091 (D.D.C. 1981);* Potter v. Dann, *201 USPQ 574 (D.D.C. 1978);* Ex parte Murray, *1891 Dec. Comm'r Pat. 130, 131 (1891). For example, as 37 C.F.R. 1.116 and 1.135(b) are manifest* that proceedings concerning an amendment after final rejection will not operate to avoid abandonment of the application in the absence of a timely and proper appeal, a delay is not "unavoidable" when the applicant simply permits the maximum extendable statutory period for reply to a final Office action to expire while awaiting a notice of allowance or other action.

Likewise, as a "reasonably prudent person" would file papers or fees in compliance with 37 C.F.R. §1.8 or §1.10 to ensure their timely filing in the USPTO, as well as preserve adequate evidence of such filing, a delay caused by an applicant's failure to file papers or fees in compliance with 37 C.F.R. §1.8 and §1.10 does not constitute "unavoidable" delay. See *Krahn*, 15 USPQ2d at 1825. Finally, 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).

35 U.S.C. §133 and §151 each require a showing that the "delay" was "unavoidable," which requires not only a showing that the delay which resulted in the abandonment of the application was unavoidable, but also a showing of unavoidable delay until the filing of a petition to revive. See *In re Application of Takao*, 17 USPQ2d 1155 (Comm'r Pat. 1990).

The burden of continuing the process of presenting a grantable petition in a timely manner likewise remains with the applicant until the applicant is informed that the petition is granted. *Id.* at 1158. Thus, an applicant seeking to revive an "unavoidably" abandoned application must cause a petition under 37 C.F.R. §1.137(a) to be filed without delay (i.e., promptly upon becoming notified, or otherwise becoming aware, of the abandonment of the application).
An applicant who fails to file a petition under 37 C.F.R. §1.137(a) "promptly" upon becoming notified, or otherwise becoming aware, of the abandonment of the application will not be able to show 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(a) was unavoidable. The removal of the language in 37 C.F.R. §1.137(a) requiring that any petition thereunder be "promptly filed after the applicant is notified of, or otherwise becomes aware of, the abandonment" should **not** be viewed as: (A) permitting an applicant, upon becoming notified, or otherwise becoming aware, of the abandonment of the application, to delay the filing of a petition under 37 C.F.R. §1.137(a); or (B) changing (or modifying) the result in *In re Application of S*, 8 USPQ2d 1630 (Comm'r Pat. 1988), in which a petition under 37 C.F.R. §1.137(a) was denied due to the applicant's deliberate deferral in filing a petition under 37 C.F.R. § 1.137. An applicant who deliberately chooses to delay the filing of a petition under 37 C.F.R. §1.137 (as in *Application of S*, 8 USPQ2d at 1632) will not be able to show 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(a)] was unavoidable" or even make an appropriate 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."

The dismissal or denial of a petition under 37 C.F.R. §1.137(a) does not preclude an applicant from obtaining relief pursuant to 37 C.F.R. 1. §137(b) on the basis of unintentional delay (unless the decision dismissing or denying the petition under 37 C.F.R. 1.137(a) indicates otherwise). In such an instance, a petition under 37 C.F.R. 1.137(b) may be filed accompanied by the fee set forth in 37 C.F.R. §1.17(m), the required reply, 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 any terminal disclaimer required by 37 C.F.R. §1.137(c).

***

(Reg. No. 45,338) when accepting Petitioners' representation that the delay in filing the response was unintentional.[3]

Moreover, the Office reminds Petitioner that, given that Petitioner and not prior Counsel Paul A. Serbinowski (Reg. No. 34,429) signed the instant petition averring unintentional delay pursuant to 37 C.F.R. §1.137(b)—the Office accepts Petitioner's submission with the presumption that Petitioner satisfied the requirement that he has made the required inquiry into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[4]

Petitioners' attentions always are directed to the guidance in the Commentary at MPEP §711.03(c) as to the showing regarding unavoidable delay and a petition pursuant to 37 C.F.R. §1.137(a) and (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.[5]

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).

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[3] 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).

[4] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on Petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

[5] See 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).

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.[6]

Petitioner's attentions always are directed to the guidance in the Commentary at MPEP §711.03(c).

As to Allegations of
Unavoidable Delay

The requirements under 37 C.F.R. §1.137(a) are the petition and fee therefor, a reply, a proper showing of unavoidable delay under the regulation, and, where applicable, a terminal disclaimer and fee.

It appears that Petitioner failed to satisfy the requirements under the Rule.

As to Allegations of
Unintentional Delay

The requirements under 37 C.F.R. §1.137(a) are the petition and fee therefor, a reply, a proper statement/showing of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee.

It appears that Petitioner satisfied the requirements under the Rule.

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[6] 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).

CONCLUSION

Accordingly, the petition pursuant to 37 C.F.R. §1.137(a) is **dismissed**; the petition pursuant to 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to Technology Center/AU 1793 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[7]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

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[7] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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DIMOCK STRATTON LLP
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TORONTO ON M5H 3R3 CA CANADA

MAILED
DEC 15 2010
OFFICE OF PETITIONS

In re Application of
Steve L. Kantor
Application No. 11/468,538
Filed: August 30, 2006
Attorney Docket No.: 1553-38/SP

ON PETITION

This is a decision in response to the petition, filed November 11, 2010, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application was held abandoned for a failure to reply in a timely manner to a non-final Office action mailed March 16, 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 June 17, 2010. This decision precedes the mailing of a Notice of Abandonment.

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

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

The application is being referred to Technology Center AU 3742 for appropriate action by the Examiner in the normal course of business on the reply received November 11, 2010.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. While 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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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TOM TILDEN
C/O WEST CORPORATION
11808 MIRACLE HILLS DR.
MAIL STOP: W11-LEGAL
OMAHA NE 68154

MAILED

JUN 03 2011

OFFICE OF PETITIONS

In re Application of	:	
Nicholas Anthony Ezzo	:	
Application No.: 11/468704	:	DECISION ON
Filing or 371(c) Date: 08/30/2006	:	PETITION
Title of Invention:	:	
METHOD FOR GENERATING SALES OF	:	
A CONVERSATIONAL VOICE	:	
RESPONSE SYSTEM	:	

This is a decision in response to the Petition Under 37 CFR § 1.181(a), filed March 2, 2011.

This Petition is hereby **dismissed**.

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

Background

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowability, mailed March 2, 2011. The Notice required a Substitute Oath or Declaration and Corrected Drawing(s), and set a non-extendable three (3) month period for reply. Extensions of time were available under 37 CFR 1.136(a).

Applicant filed a Substitute Oath or Declaration in response to the Notice on December 13, 2010. However, no Corrected Drawings were filed on December 13, 2010.

No complete and proper reply to the Notice having been filed, the application became anbandoned on December 15, 2010. A Notice of Abandonment was mailed on January 3, 2011.

The present petition

Applicant files the present petition and traverses the requirement for Corrected Drawing(s) in the Notice of Allowability. Applicant does not aver that a reply to the Notices requirement to file Corrected Drawings was timely filed.

Applicable Law, Rules and MPEP

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.

This section of the statute is further clarified in Office rule, 37 CFR § 1.135, Abandonment for failure to reply within time period, which states

> (a) If an applicant of a patent application fails to reply within the time period provided under § 1.134 and § 1.136, the application will become abandoned unless an Office action indicates otherwise.
> (b) Prosecution of an application to save it from abandonment pursuant to paragraph (a) of this section must include such complete and proper reply as the condition of the application may require. The admission of, or refusal to admit, any amendment after final rejection or any amendment not responsive to the last action, or any related proceedings, will not operate to save the application from abandonment.
> (c) When reply by the applicant is a bona fide attempt to advance the application to final action, and is substantially a complete reply to the non-final Office action, but consideration of some matter or compliance with some requirement has been inadvertently omitted, applicant may be given a new time period for reply under § 1.134 to supply the omission.

This section explains that the reply must be both complete and proper as the condition of the application may require.

Analysis

Applicant is advised an application becomes abandoned according to statute and Office rules. In this instance, Applicant was required to file a complete and proper reply to the Notice mailed on September 14, 2010. Applicant filed a timely reply to the Notice on December 13, 2010; however, the reply was not a complete reply. Having failed to file a complete and proper reply to the Notice, the application became abandoned.

Applicant is advised that, as provided in the Manual of Patent Examining Procedure,

> [w]here an applicant contends that the application is not in fact abandoned (e.g., there is disagreement as to the sufficiency of the reply, or as to controlling dates), a petition under 37 CFR 1.181(a) requesting withdrawal of the holding of abandonment is the appropriate course of action, and such petition does not require a fee. **Where there is no dispute as to whether an application is abandoned (e.g., the applicant's contentions merely involve the cause of abandonment), a petition under 37 CFR 1.137 (accompanied by the appropriate petition fee) is necessary to revive the abandoned application**.

MPEP 711.03(c).

Here, applicant does not contend that the reply filed December 13, 2010 was sufficient, or that the date controlling the abandonment is in dispute. Applicant's contentions merely involve the cause of abandonment. A petition to revive the application is required.

Conclusion

In view of the foregoing, Applicant has failed to demonstrate that a complete and proper reply to the Notice was timely filed.

Alternate Venue

Applicant is strongly urged to file 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 was "unavoidable." An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the required 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 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 revive under 37 CFR 1.137(b).

Finally, petitioner is advised that no terminal disclaimer is required. A refund of the fee for filing the Terminal Disclaimer may be obtained by writing to the Office of Finance, Refund Section. A copy of this decision should accompany the request.

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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MAIL STOP: W11-LEGAL
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JUL 22 2011
OFFICE OF PETITIONS

In re Application of	:	
Nicholas Anthony Ezzo	:	
Application No.: 11/468704	:	DECISION ON
Filing or 371(c) Date: 08/30/2006	:	PETITION
Title of Invention:	:	
METHOD FOR GENERATING SALES OF	:	
A CONVERSATIONAL VOICE	:	
RESPONSE SYSTEM	:	

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

This Petition is hereby **dismissed**.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Request for Reconsideration of Petition under [insert the applicable code section]". This is **not** final agency action within the meaning of 5 U.S.C. § 704.

Background

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowability, mailed March 2, 2011. The Notice required a Substitute Oath or Declaration and Corrected Drawing(s), and set a non-extendable three (3) month period for reply. Extensions of time were available under 37 CFR 1.136(a).

Applicant filed a Substitute Oath or Declaration in response to the Notice on December 13, 2010. However, no Corrected Drawings were filed on December 13, 2010.

No complete and proper reply to the Notice having been filed, the application became anbandoned on December 15, 2010. A Notice of Abandonment was mailed on January 3, 2011.

The March 2, 2011 petition to withdraw the holding of abandonment

Applicant filed a petition to withdraw the holding of abandonment on March 2, 2011 wherein Applicant traversed the requirement for Corrected Drawing(s) in the Notice of Allowability. Applicant did not aver that a reply to the Notices requirement to file Corrected Drawings was timely filed.

The petition was dismissed in a Decision mailed June 3, 2011. The Decision dismissing the petition informed applicant that no complete and proper reply to the Notice had been filed because corrected drawing(s) were not included in the reply. Applicant's contentions merely involved the cause of abandonment, and a petition to revive the application is required.

The present petition

Applicant files the present petition and again traverses the requirement for a corrected drawing. Applicant has not filed a corrected drawing with the present petition.

Applicable law, Rules and MPEP

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

Analysis/conclusion

As to item (1), the Examiner has reiterated that a corrected drawing is required.

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

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

By mail: Director for Patents
PO Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300

Attn: Office of Petitions

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

Inquiries regarding the drawing requirement should be directed to the Examiner. Telephone inquiries concerning this petition Decision should be directed to the undersigned at (571) 272-3232.

/DLW/

Derek L. Woods
Attorney
Office of Petitions

Cc: Raffi Gostanian
1103 Twin Creeks Drive
Allen, TX 75013

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OCT 14 2011

OFFICE OF PETITIONS

In re Application of	:	
Nicholas Anthony Ezzo	:	
Application No.: 11/468704	:	DECISION ON
Filing or 371(c) Date: 08/30/2006	:	PETITION
Title of Invention:	:	
METHOD FOR GENERATING SALES OF	:	
A CONVERSATIONAL VOICE	:	
RESPONSE SYSTEM	:	

This is a decision on the petition under 37 CFR 1.137(b), filed September 19, 2011, 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 Allowability, mailed March 2, 2011. The Notice required a Substitute Oath or Declaration and Corrected Drawing(s), and set a non-extendable three (3) month period for reply. Extensions of time were available under 37 CFR 1.136(a).

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; (2) the petition fee; and (3) the required statement of unintentional delay. Accordingly, the reply is accepted as having been unintentionally delayed.

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

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

/DLW/

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No.

FOLEY & LARDNER LLP
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON WI 53701-1497

MAILED
NOV 29 2010
OFFICE OF PETITIONS

In re Application of	:	
Matthies et al.	:	DECISION
Application No. 11/468,744	:	ON APPLICATION FOR
Filed: August 30, 2006	:	PATENT TERM ADJUSTMENT
Atty Docket No. 088245-4065	:	
Title: TILED ELECTRONIC	:	
DISPLAY STRUCTURE	:	

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(b)," filed November 16, 2010. Applicant submits that the correct patent term adjustment to be indicated on the patent is one thousand, two hundred and twenty-five (1225) days, not nine hundred and four (904) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction solely on the basis that the Office will take in excess of three years to issue this patent.

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

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

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

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

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

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

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

---

[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 37 CFR 1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

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

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

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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STOLOWITZ FORD COWGER LLP
621 SW MORRISON ST
SUITE 600
PORTLAND OR 97205

MAILED

AUG 06 2010

OFFICE OF PETITIONS

In re Application of
Yin-Chun Huang et al.
Application No. 11/468,784
Filed: August 31, 2006
Attorney Docket No: 9585-0311

ON PETITION

This is a decision on the petition filed March 30, 2010 under 37 CFR 1.182, for withdrawal of the terminal disclaimer filed September 21, 2009.

The petition is **GRANTED**.

The examiner responsible for the above-identified application has indicated that the terminal disclaimer filed September 21, 2009 does not apply to any of the claims as currently amended. Accordingly, on petition the terminal disclaimer is withdrawn.

The petition fee in the amount of $400.00 has been charged to the credit card provided.

This matter is being referred to Technology Center 2625 to correct the records related to the terminal disclaimer filed September 21, 2009 consistent with this decision.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 08/18/11

TO SPE OF : ART UNIT 2625

SUBJECT : Request for Certificate of Correction for Appl. No.: 11468784 Patent No.: 7898700

CofC mailroom date: 08/08/11

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
[redacted]

Note:

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.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Comments: Approved

/Mark Zimmerman/ 2625

SPE **Art Unit**

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FOLEY & LARDNER LLP
150 EAST GILMAN STREET
PO BOX 1497
MADISON WI 53701-1497

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DEC 22 2010

OFFICE OF PETITIONS

In re Application of	:	
Giroux, et al.	:	
Application No. 11/468,878	:	ON REQUEST FOR
Filed: August 31, 2006	:	RECONSIDERATION OF
Attorney Docket Number: 088245-3843	:	PATENT TERM ADJUSTMENT

This is a decision on the petition under 37 CFR 1.705(b), filed November 16, 2010. Applicants believe that they should be accorded an additional PTA of 554 days. Applicants request this correction on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment 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 **five hundred thirteen (513) days**.

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

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

Anthony Knight
Director
Office of Petitions

Enc: copy of PAIR screen

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

Patent Term Adjustments

PTA/PTE Information

Application Number*: 11468878 Search | Explanation of PTA Calculation | Explanation of PTE Calculation

PTA Calculations for Application: 11468878

Application Filing Date	08/31/2006	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	603
A Delays	603	PTO Manual Adjustment	0
B Delays	0	Applicant Delay (APPL)	90
C Delays	0	Total PTA (days)	513

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
82	08/24/2010		MN/=.	Mail Notice of Allowance		0	
81	08/24/2010		IREV	Issue Revision Completed		0	
80	08/24/2010		N/=.	Notice of Allowance Data Verification Completed		0	
79	08/24/2010		DVER	Document Verification		0	
78	08/16/2010		CNTA	Notice of Allowability		0	
72	08/09/2010		FWDX	Date Forwarded to Examiner		0	
71	08/05/2010		A...	Response after Non-Final Action		0	
77	06/01/2010		IDSC	Information Disclosure Statement considered		0	
70	06/01/2010		RCAP	Reference capture on IDS		0	
69	06/01/2010		M844	Information Disclosure Statement (IDS) Filed		0	
68	06/01/2010		WIDS	Information Disclosure Statement (IDS) Filed		0	
67	05/11/2010		MCTNF	Mail Non-Final Rejection		0	
66	05/10/2010		CTNF	Non-Final Rejection		0	
64	03/02/2010		FWDX	Date Forwarded to Examiner		0	
63	03/01/2010		A...	Response after Non-Final Action		0	
60	12/30/2009		MCTNF	Mail Non-Final Rejection		0	
59	12/22/2009		CTNF	Non-Final Rejection		0	
62	12/17/2009		RCAP	Reference capture on IDS		0	
61	12/17/2009	09/18/2009	M844	Information Disclosure Statement (IDS) Filed		90 54	
58	12/17/2009		IDSC	Information Disclosure Statement considered		0	
57	12/17/2009		WIDS	Information Disclosure Statement (IDS) Filed		0	
55	10/15/2009		FWDX	Date Forwarded to Examiner		0	
54	09/18/2009		A...	Response after Non-Final Action		0	
53	06/25/2009	10/31/2007	MCTNF	Mail Non-Final Rejection	603	-1	
52	06/22/2009		CTNF	Non-Final Rejection		0	
45	05/26/2009		IDSC	Information Disclosure Statement considered		0	
42	05/26/2009		RCAP	Reference capture on IDS		0	
41	05/26/2009		M844	Information Disclosure Statement (IDS) Filed		0	
40	05/26/2009		WIDS	Information Disclosure Statement (IDS) Filed		0	
31	03/31/2009		A.PE	Preliminary Amendment		0	
24	12/04/2008		DOCK	Case Docketed to Examiner in GAU		0	
38	11/12/2008		IDSC	Information Disclosure Statement considered		0	
26	11/12/2008		M844	Information Disclosure Statement (IDS) Filed		0	
25	11/12/2008		RCAP	Reference capture on IDS		0	
23	11/12/2008		WIDS	Information Disclosure Statement (IDS) Filed		0	
22	10/07/2008		DOCK	Case Docketed to Examiner in GAU		0	
21	10/07/2008		DOCK	Case Docketed to Examiner in GAU		0	
37	09/30/2008		IDSC	Information Disclosure Statement considered		0	
28	09/30/2008		M844	Information Disclosure Statement (IDS) Filed		0	
27	09/30/2008		RCAP	Reference capture on IDS		0	
20	09/30/2008		WIDS	Information Disclosure Statement (IDS) Filed		0	
36	05/22/2008		IDSC	Information Disclosure Statement considered		0	
30	05/22/2008		M844	Information Disclosure Statement (IDS) Filed		0	
29	05/22/2008		RCAP	Reference capture on IDS		0	
19	05/22/2008		WIDS	Information Disclosure Statement (IDS) Filed		0	
18	01/24/2008		C.AD	Correspondence Address Change		0	
17	10/17/2007		W525	Withdraw Flagged for 5/25		0	
16	10/15/2007		F525	Flagged for 5/25		0	
15	07/06/2007		DOCK	Case Docketed to Examiner in GAU		0	
14	03/22/2007		PG-ISSUE	PG-Pub Issue Notification		0	
13	02/16/2007		DOCK	Case Docketed to Examiner in GAU		0	
12	01/16/2007		TSSCOMP	IFW TSS Processing by Tech Center Complete		0	
10	11/22/2006		OIPE	Application Dispatched from OIPE		0	
9	11/22/2006		COMP	Application Is Now Complete		0	
11	11/13/2006		A.PE	Preliminary Amendment		0	
8	11/13/2006		FLFEE	Payment of additional filing fee/Preexam		0	
5	11/13/2006		OATHDECL	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic		0	
4	09/21/2006		INCD	Notice Mailed--Application Incomplete--Filing Date Assigned		0	
3	09/15/2006		L194	Cleared by OIPE CSR		0	
2	09/14/2006		SCAN	IFW Scan & PACR Auto Security Review		0	
7	08/31/2006		CLAIM	Claim Preliminary Amendment		0	
1	08/31/2006		IEXX	Initial Exam Team nn		0	

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QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO CA 92121

MAILED
APR 22 2011
OFFICE OF PETITIONS

In re Application of	:	
Richard Gerard Hofmann, et al.	:	
Application No. 11/468,908	:	DECISION GRANTING PETITION
Filed: August 31, 2006	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 060468	:	

This is a 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 on March 11, 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 2472 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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SMITH RISLEY TEMPEL SANTOS LLC
Two Ravinia Drive
Suite 700
ATLANTA GA 30346

MAILED
SEP 01 2011
OFFICE OF PETITIONS

In re Application of

Johnson :

Application No. 11/468,946

: DECISION ON PETITION

Filed: August 31, 2006

:

Attorney Docket No. **01003.1011** .

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

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, September 9, 2010, which set a shortened statutory period for reply of three (3) months from its mailing date. No extension of time pursuant to 37 CFR 1.136(a) was obtained within the allowable period. Accordingly, the application became abandoned on December 10, 2010. A Notice of Abandonment was mailed March 22, 2011.

The amendment filed April 5, 2011, is noted.

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 is being forwarded to Technology Center 3700, GAU 3714 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 Johnson
9811 W. Charleston Blvd., Suite 2725
Las Vegas, NV 89117

UNITED STATES PATENT AND TRADEMARK OFFICE

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THEMI ANAGNOS
TERMAX CORPORATION
1155 ROSE
LAKE ZURICH IL 60047

MAILED

OCT 22 2010

OFFICE OF PETITIONS

In re Application of	:	
Dickenson et al.	:	
Application No. 11/468,960	:	ON PETITION
Filed: August 31, 2006	:	
Attorney Docket No. TE9AC3	:	

This is a decision on the renewed petition under 37 C.F.R. § 1.137(b), filed October 12, 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, along with Corrected Drawings, (2) the petition fee of $810.00, and (3) a proper statement of unintentional delay.

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

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

Liana Walsh
Petitions Examiner
Office of Petitions

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19TH FLOOR
1621 EUCLID AVENUE
CLEVELAND OH 44115-2191

MAILED

NOV 16 2011

OFFICE OF PETITIONS

In re Application of	:	
LIPMAN	:	
Application No. 11/468,961	:	DECISION ON PETITION
Filed: August 31, 2006	:	
Docket No. AVERP3938WOUS	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, March 9, 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 June 10, 2011. A Notice of Abandonment was mailed on October 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 $1860; 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.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1270 extension of time fee submitted with the petition on October 27, 2011, was subsequent to the maximum extendable period for reply, petitioner may request a refund of this fee by writing to the following address: Mail Stop 16, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450. A copy of this decision should accompany petitioner's request.

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

All other inquiries should be directed to the Technology Center at (571) 272-3700.

This application is being referred to Technology Center AU 3769 for appropriate action by the Examiner in the normal course of business.

/Diane Goodwyn/
Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: AMBER C. RUIC
AVERY DENNISON CORPORATION
8080 NORTON PARKWAY, 22-D,
MENTOR, OH 44060

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P.O. BOX 7037
ATLANTA GA 30357-0037

MAILED

AUG 26 2011

OFFICE OF PETITIONS

In re Application of :
Esteller, et al. :
Application No. 11/469,029 : DECISION
Filed/Deposited: 31 August, 2006 :
Attorney Docket No. I080 1020.3 :

This is a decision on the petition pursuant to 37 C.F.R. §1.182, filed on 31 August, 2006, but only now sent to the Office of Petitions for consideration, to change the order of the names of the inventors.

NOTE:

The instant petition was not directed to the Office of Petitions until this writing.

The petition pursuant to 37 C.F.R. §1.182 is **GRANTED**.

The guidance in the Commentary at MPEP §605.04(f) provides, in pertinent part:

> **§605.04(f) Signature on Joint Applications - Order of Names [R-3]**
>
> The order of names of joint patentees in the heading of the patent is taken from the order in which the typewritten names appear in the original oath or declaration. Care should therefore be exercised in selecting the preferred order of the typewritten names of the joint inventors, before filing, as requests for subsequent shifting of the names would entail changing numerous records in the Office. Since the particular order in which the names appear is of no consequence insofar as the legal rights of the joint applicants are concerned, no changes will be made except when a petition under 37 C.F.R. §1.182 is granted. The petition should be directed to the attention of the Office of Petitions. The petition to change the order of names must be signed by either the attorney or agent of record or all the applicants. Applicants are strongly encouraged to submit an application data sheet showing the new order of inventor names to ensure appropriate printing of the inventor names in any patent to issue. It is suggested that all typewritten and signed

> names appearing in the application papers should be in the same order as the typewritten names in the oath or declaration. (Emphasis supplied.)
>
> ***

The petition herein is signed by Counsel herein John T. Timar (Reg. No. 32,497), who seeks the following order of inventors: Rosana Esteller, Javier Ramón Echauz, Brian Litt, George John Vachtsevanos.

The $400.00 fee for the petition pursuant to 37 C.F.R. §1.182 is charged.

Office records are being corrected to reflect the change in the order of the named inventors. An updated filing receipt is enclosed. (Out of an abundance of caution, to ensure that the correction has been entered into Office records, the application is being referred to the Office of Patent Application Processing (OPAP) for review to ensure changes have been or are entered into Office records as to the order of inventors and the mailing of an updated filing receipt reflecting those changes consistent with this decision before the application is forwarded for further processing in due course.)

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[1]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

---

[1] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 07/22/11

TO SPE OF : ART UNIT 2827

SUBJECT : Request for Certificate of Correction for Appl. No.: 11469074 Patent No.: 7400545

CofC mailroom date: 07/13/11

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Note: _____

_____

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: _____

_____

_____ 2827

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/469,220	08/31/2006	Bruce D. DeJong	MIL025 P304	6148

277 7590 10/15/2010
PRICE HENEVELD COOPER DEWITT & LITTON, LLP
695 KENMOOR, S.E.
P O BOX 2567
GRAND RAPIDS, MI 49501

EXAMINER
PRATT, HELEN F

ART UNIT	PAPER NUMBER
1789	

MAIL DATE	DELIVERY MODE
10/15/2010	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Mailed : OCT 15 2010

In re Application of : DECISION ON
De Jong et al. : PETITION
Serial No. 11/469,220 :
Filed: August 31, 2006 :
For: PROCESS FOR PREPARING A MELON EXTRACT AND CONCENTRATE AND PRODUCT PRODUCED BY THE PROCESS

This is a decision on the PETITION FILED UNDER 37 CFR 1.144 filed on September 27, 2010.

The Examiner initially required a restriction on July 12, 2010 between Group I, claims 1-7, 14, 20-22, and 25-28 drawn to a process classified in class 426, subclass 615 and Group II, claims 8-13, 15-19, and 23-24 drawn to a process of using an apparatus classified in class 99, subclass+. Applicants elected Group I with traverse on August 11, 2010..

The Examiner found that Inventions I and II are related as apparatus and product made. The inventions in this relationship are distinct if either or both of the following can be shown: (1) that the apparatus as claimed is not an obvious apparatus for making the product and the apparatus can be used for making a materially different product or (2) that the product as claimed can be made by another materially different apparatus (MPEP § 806.05(g)). In this case a different process can be made by squashing the water melon and using just the inside red meat.

The Examiner must show by way of example either (A) that the apparatus as *claimed* is not an obvious apparatus for making the product and the apparatus *as claimed* can be used to make another materially different product or (B) that the product *as claimed* can be made by another materially different apparatus.

The burden is on the Examiner to provide an example, but the example need not be documented. If Applicant either proves or provides convincing argument that the alternative example suggested by the Examiner is not workable, the burden is on the Examiner to suggest another viable example or withdraw the restriction requirement.

Applicants have not stated that the example suggested by the Examiner is not workable. Applicants assert that all the claims are directed toward a process for producing a melon extract and none of the claims are directed toward an apparatus.

Where the claims of an application define the same essential characteristics of a *single* disclosed embodiment of an invention, restriction there between should never be required. This is because the claims are not directed to distinct inventions; rather they are different definitions of the same disclosed subject matter, varying in breadth or scope of definition. The claims from Group II contain apparatus limitations and the particular apparatus used to make the extract.

Claim 8 which include a step of steaming the outside surface of the melon utilizing a steamer having a rotatable stem cylinder assembly that includes a steam line. Claim 9 further describes the rotatable stem assembly containing a drive belt.....a main cylinder, a motor and a reverse auger. The further non-elected claims contain similar apparatus limitations.

The position of the Examiner is reasonable.

DECISION

The petition is **DENIED**.

/SHARON GIBSON/
Director, Technology Center 1700
Chemical and Materials Engineering

Todd A. Van Thomme
PRICE HENEVELD COOPER DEWITT & LITTON, LLP
695 KENMOOR, S.E.
P O BOX 2567
GRAND RAPIDS MI 49501

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/469,220	08/31/2006	Bruce D. DeJong	MIL025 P304	6148

277 7590 12/17/2010
PRICE HENEVELD COOPER DEWITT & LITTON, LLP
695 KENMOOR, S.E.
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GRAND RAPIDS, MI 49501

EXAMINER
HEGGESTAD, HELEN F

ART UNIT	PAPER NUMBER
1789	

MAIL DATE	DELIVERY MODE
12/17/2010	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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wk

DEC 17 2010

Mailed :
In re Application of : DECISION ON
De Jong et al. : PETITION
Serial No. 11/469,220 :
Filed: August 31, 2006 :
For: PROCESS FOR PREPARING A MELON EXTRACT AND CONCENTRATE AND PRODUCT PRODUCED BY THE PROCESS

This is a decision on the REQUEST FOR RECONSIDERATION of the PETITION FILED UNDER 37 CFR 1.144 originally filed on September 27, 2010.

The Examiner initially required a restriction on July 12, 2010 between Group I, claims 1-7, 14, 20-22, and 25-28 drawn to a process classified in class 426, subclass 615 and Group II, claims 8-13, 15-19, and 23-24 drawn to a process of using an apparatus classified in class 99, subclass+. Applicants elected Group I with traverse on August 11, 2010.

The Examiner found that Inventions I and II are related as apparatus and product made. The inventions in this relationship are distinct if either or both of the following can be shown: (1) that the apparatus as claimed is not an obvious apparatus for making the product and the apparatus can be used for making a materially different product or (2) that the product as claimed can be made by another materially different apparatus (MPEP § 806.05(g)). In this case a different process can be made by squashing the water melon and using just the inside red meat.

Applicants assert that the proper analysis is not under MPEP 806.05(g), but rather the proper analysis should be under MPEP 806.05(j) which refer to related products / related processes

To support a requirement for restriction between two or more related product inventions, or between two or more related process inventions, both two-way distinctness and reasons for insisting on restriction are necessary, i.e., separate classification, status in the art, or field of search. See MPEP § 808.02. See MPEP § 806.05(c) for an explanation of the requirements to establish two-way distinctness as it applies to inventions in a combination/subcombination relationship. For other related product inventions, or related process inventions, the inventions are distinct if

(A) the inventions *as claimed* do not overlap in scope, i.e., are mutually exclusive;

(B) the inventions *as claimed* are not obvious variants; and

(C) the inventions *as claimed* are either not capable of use together or can have a materially different design, mode of operation, function, or effect. See MPEP § 802.01.

Where the claims of an application define the same essential characteristics of a *single* disclosed embodiment of an invention, restriction there between should never be required. This is because the claims are not directed to distinct inventions; rather they are different definitions of the same disclosed subject matter, varying in breadth or scope of definition. The claims from both Groups I and II are drawn to a process with Group II containing apparatus limitations and the particular apparatus used to make the extract. The claims from Group II ultimately depend from claim 1.

DECISION

The petition is **GRANTED**.

The Restriction Requirement is withdrawn and the Examiner is directed to rejoin the claims.

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

Todd A. Van Thomme
PRICE HENEVELD COOPER DEWITT & LITTON, LLP
695 KENMOOR, S.E.
P O BOX 2567
GRAND RAPIDS MI 49501

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MAILED

FEB 28 2011

OFFICE OF PETITIONS

TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS, TX 75265

In re Application of Sher Jiun Fang, et al. Application No. 11/469,298 Filed: August 31, 2006 Attorney Docket No. TI-60911	: : : : :	DECISION 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 application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, February 22, 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 23, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of 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 January 20, 2011.

April M. Wise
Petitions Examiner
Office of Petitions

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MAILED Paper No.

AUG 30 2010

OFFICE OF PETITIONS

FOLEY & LARDNER LLP
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON WI 53701-1497

In re Patent No. 7,626,488	:	DECISION DISMISSING REQUEST
Armstrong et al.	:	FOR RECONSIDERATION OF
Issue Date: December 1, 2009	:	PATENT TERM ADJUSTMENT
Application No. 11/469,477	:	AS MOOT
Filed: August 31, 2006	:	
Atty Docket No. 088245-6605	:	
	:	

This is a decision on the petition filed on May 18, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one hundred and eighty (180) days.

On February 23, 2010, Patentee filed a Request for Recalculation of Patent Term Adjustment in view of Wyeth. On April 21, 2010, the Office mailed a "DECISION ON REQUEST FOR RECALCULATION of PATENT TERM ADJUSTMENT IN VIEW OF WYETH AND NOTICE OF INTENT TO ISSUE CERTIFICATE OF CORRECTION," indicating that the patent term adjustment had been determined to be 148 days. On May 18, 2010, Patentee filed the present petition requesting an adjustment of 180 days, and on this same date, the Office mailed a "NOTICE CONCERNING IMPROPER CALCULATION OF PATENT TERM ADJUSTMENT BASED UPON USPTO IMPROPERLY MEASURING REDUCTION PERIOD UNDER 37 CFR 1.704(c)(10)," vacating the April 21, 2010 mailing, and indicating that the patent term adjustment had been determined to be 180 days.

It follows that this petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or

adjusted by one hundred and eighty (180) days is **DISMISSED AS MOOT**.

The $200 fee under 37 C.F.R. § 1.18(e) is unnecessary, and will be refunded to Petitioner's credit card in due course.

As noted in the third paragraph of the notice of May 18, 2010, "[t]he USPTO will *sua sponte* issue a certificate of correction reflecting" the 180-day adjustment. Emphasis included.

Telephone inquiries specific to this matter should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.

Anthony Knight
Director
Office of Petitions

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RIM
1000 LOUISIANA STREET
FIFTY-THIRD FLOOR
HOUSTON, TX 77002

MAILED
OCT 06 2010
OFFICE OF PETITIONS

Applicant: Bocking, et al.
Appl. No.: 11/469,524
Filing Date: September 1, 2006
Title: Disabling Operation Of Features on Handheld Mobile Communication Device Based Upon Location
Attorney Docket No.: 8085.044.NPUS00
Pub. No.: US 2009/0322890 A1
Pub. Date: December 31, 2009

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on January 28, 2010, for the above-identified application.

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains material errors on the front page of the publication wherein the name of the second inventor "David Noel Vanden Heuvel" was misprinted as "David Noel Vanden Helivel".

37 CFR 1.221 (b) is applicable "only when the Office makes a material mistake which is apparent from Office records.... Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. [1]

The error on the front page of the publication wherein the spelling of the second inventor's name is incorrect may be Office error, but is not a material Office error under 37 CFR 1.221. The typographical error of the inventor's name may be due to the text on the declaration which is not clear. The mistake does not affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239, Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

Applicant is advised that he may want to file application papers that are clearer, as the error may be due to the quality of the text. Applicants have been advised to file applications having cleaner and larger text with sufficient clarity and contrast to permit reproduction, such as electronic reproduction by digital imaging and optical character recognition, which will avoid errors in the patent application publication process. See 37 CFR 1.52 and PCT Rule 11.9(d).

On March 12, 2007, a Filing Receipt was mailed by the Office, which improperly listed the inventor's name. To avoid this type of problem in the future, applicant's representative should make request for a corrected filing receipt, prior to export of the application to the publisher.

It would greatly benefit the Office if **applicant did not provide copies of papers**, which were previously submitted and/or **a complete copy of the pre-grant publication**, as it unnecessarily increases the cost to the Office. See 37 CFR 1.4(b). A request for corrected publication need only point out what was printed incorrectly in the application, where the error occurs in the publication and where the correct text or drawing is found in the application papers, Marked up Relevant copies of the applications papers and the pre-grant publication may facilitate processing of the request, where it is not readily apparent where the error occurs. If it is not clear why the error is a material error, further explanation may be warranted.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

A guide for filing a request for a Pre-Grant Publication, such as a request for republication, may be found on the link below:

http://www.uspto.gov/patents/process/file/efs/guidance/index.jsp

http://www.uspto.gov/ebc/portal/efs/pgpub_quickstart.pdf

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system, as a "Pre-Grant Publication."

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709.

Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/469,524	09/01/2006	Andrew Douglas Bocking	8085.044.NPUS00	6586

63206 7590 11/24/2010
RIM
1000 LOUISIANA STREET
FIFTY-THIRD FLOOR
HOUSTON, TX 77002

EXAMINER
CUMMING, WILLIAM D

ART UNIT	PAPER NUMBER
2617	

NOTIFICATION DATE	DELIVERY MODE
11/24/2010	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):

ndqrimpatents@novakdruce.com
portfolioprosecution@rim.com

UNITED STATES PATENT AND TRADEMARK OFFICE

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1000 LOUISIANA STREET
FIFTY-THIRD FLOOR
HOUSTON TX 77002

Applicant: Bocking et al.
Appl. No.: 11/469,524
Filing Date: September 1, 2006
Title: DISABLING OPERATION OF FEATURES ON A HANDHELD MOBILE COMMUNICATION DEVICE BASED UPON LOCATION
Attorney Docket No.: 8085.044.NPUS00
Pub. No.: US 2009/0322890 A1
Pub. Date: December 31, 2009

This is a decision on the request for republication of patent application publication under 37 CFR 1.221(a), filed on November 19, 2010, for the above-identified application.

The request under 37 CFR 1.221(a) is DISMISSED.

37 CFR 1.221(a) requires "a copy of the application in compliance with the Office electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)". If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

The applicant did not supply a copy of the application in compliance with the Office electronic filing system, as required by 37 CFR 1.221(a) because **the applicant submitted the papers as a "Document for an existing application", which are entered into the application file, and not as a "Pre-Grant Publication" submission**. The request for republication does not comply with the electronic filing system requirements, thus republication will not take place.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system, as a Pre-Grant publication submission and must include a copy of the application in compliance with the Office electronic filing system requirements. The applicant is directed to the following website for additional instructions on how to submit a Pre-Grant Publication submission via the electronic filing system:

http://www.uspto.gov/ebc/portal/efs/pgpub_quickstart.pdf

Any questions or requests for reconsideration of the decision should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

By facsimile: 571-273-8300

Telephone inquiries regarding this correspondence should be directed to The Office of Data Management at 571-272-4200.

Tammy J. Koontz
Office of Data Management
United States Patent & Trademark Office

Adjustment date: 11/24/2010 KKING1
11/22/2010 INTEFSW 00003579 11469524
01 FC:1504 -300.00 OP

Refund Ref:
11/24/2010 0030091103

Credit Card Refund Total: $300.00

Master C: XXXXXXXXXXXX9290

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/469,524	09/01/2006	Andrew Douglas Bocking	8085.044.NPUS00	6586

63206 7590 12/22/2010
RIM
1000 LOUISIANA STREET
FIFTY-THIRD FLOOR
HOUSTON, TX 77002

EXAMINER
CUMMING, WILLIAM D

ART UNIT	PAPER NUMBER
2617	

NOTIFICATION DATE	DELIVERY MODE
12/22/2010	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):

ndqrimpatents@novakdruce.com
portfolioprosecution@rim.com

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FIFTY-THIRD FLOOR
HOUSTON TX 77002

Applicant: Bocking et al.
Appl. No.: 11/469,524
Filing Date: September 1, 2006
Title: DISABLING OPERATION OF FEATURES ON A HANDHELD MOBILE COMMUNICATION DEVICE BASED UPON LOCATION
Attorney Docket No.: 8085.044.NPUS00
Pub. No.: US 2009/0322890 A1
Pub. Date: December 31, 2009

This is a decision on the request for republication of patent application publication under 37 CFR 1.221(a), filed on December 1, 2010, for the above-identified application.

The request under 37 CFR 1.221(a) is DISMISSED.

37 CFR 1.221(a) requires "a copy of the application in compliance with the Office electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)". If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

The applicant did not supply a copy of the application in compliance with the Office electronic filing system, as required by 37 CFR 1.221(a) because **the applicant submitted the papers as a "Document for an existing application", which are entered into the application file, and not as a "Pre-Grant Publication" submission**. In addition, the applicant did not provide a copy of the application for publication purposes, and the request was not accompanied by the publication fee set forth in § 1.18(d). The request for republication does not comply with the electronic filing system requirements, thus republication will not take place.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system, as a Pre-Grant publication submission and must include a copy of the application in compliance with the Office electronic filing system requirements. The applicant is directed to the following

website for additional instructions on how to submit a Pre-Grant Publication submission via the electronic filing system:

http://www.uspto.gov/ebc/portal/efs/pgpub_quickstart.pdf

Any questions or requests for reconsideration of the decision should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

By facsimile: 571-273-8300

Telephone inquiries regarding this correspondence should be directed to The Office of Data Management at 571-272-4200.

Tammy J. Koontz

Tammy J. Koontz
Office of Data Management
United States Patent & Trademark Office

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

UC Berkeley - OTL
Bozicevic, Field & Francis LLP
1900 University Avenue, Suite 200
East Palo Alto, CA 94303

Mail Date: 08/13/2010

Applicant	: JAY KEASLING	: DECISION ON REQUEST FOR
Patent Number	: 7667017	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/469,587	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/01/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **212** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
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)
7354339	2008-04-08	11469633	2006-09-01	P07557US01

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	/KIRK M. HARTUNG/	Date (YYYY-MM-DD)	
Name	KIRK M. HARTUNG	Registration Number	31021

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 7354339
Issue Date: April 8,2008
Application No. 11469633
Filed: September 1,2006
Attorney Docket No. P07570US01

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

This is a decision on the electronic petition, filed April 13,2012 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of April 13,2012 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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)
7,323,637	2008-01-29	11/469,691	2006-09-01	P07292US01

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	/KIRK M. HARTUNG/	Date (YYYY-MM-DD)	2012-02-23
Name	KIRK M. HARTUNG	Registration Number	31021

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 7323637
Issue Date: January 29,2008
Application No. 11469691
Filed: September 1,2006
Attorney Docket No. P07292US01

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

This is a decision on the electronic petition, filed February 23,2012 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of February 23,2012 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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 29 2011
OFFICE OF PETITIONS

MORRIS MANNING MARTIN LLP
3343 PEACHTREE ROAD, NE
1600 ATLANTA FINANCIAL CENTER
ATLANTA, GA 30326

In re Application of Chung-Li Shen Application No. 11/469,958 Filed: September 5, 2006 Attorney Docket No.: 14970-78191	: : : : :	ON PETITION

This is a decision in response to the petition, filed March 10, 2011, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed June 11, 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 September 12, 2010. A Notice of Abandonment was mailed on March 4, 2011. On March 10, 2011, the present petition was filed.

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

The application is being referred to Technology Center AU 2422 for appropriate action by the Examiner in the normal course of business on the amendment received March 10, 2011.

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

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 7/24/09

TO SPE OF : ART UNIT 3632

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/469993 Patent No.: 7556224

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 (C of C)
Randolph Square 9C62-D
Palm Location 7580

Ennis Young
Certificates of Correction Branch
703-756-1542

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

3632
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED
MAR 22 2012
OFFICE OF PETITIONS

MACMILLAN SOBANSKI & TODD, LLC
ONE MARITIME PLAZA FIFTH FLOOR
720 WATER STREET
TOLEDO OH 43604-1619

In re Application of
Willey et al.
Application No. 11/470,192
Filed: September 5, 2006
Attorney Dkt. 1-52559-D2005-06(2)
Title: METHODS AND COMPOSITIONS FOR IDENTIFYING CANCER-RELATED BIOMARKERS

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 29, 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 January 20, 2010. The Office Action set a three (3) month shortened statutory period for reply. No extension of time was obtained under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on April 21, 2010. A Notice of Abandonment was mailed on August 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 $930.00, and (3) a statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR §10.18(b). In the event that such an inquiry has not been made, Petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR §1.137(b) was unintentional, petitioner must notify the Office.

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

This application is being referred to Technology Center AU 1634 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 DEPARTMENT OF COMMERCE
COMMISSIONER FOR PATENTS
P. O. BOX 1450
ALEXANDRIA, VA 22313-1450

Date	: 4/25/2011
Patent No.	: 7,907,366
Serial No.	: 11/470,199
Inventor(s)	: Ulrich
Issue Date	: March 15, 2011
Title	: **REMOVABLE DATA CARTRIDGE**
Doc./File No.	: **89250-716021**

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, the Assignee is printed in accordance with record (85-B, Issue Fee Transmittal), as it is also in the assignment data, since there is no objection prior to the payment of the issue fee, it is not the fault of the office. Therefore, no correction is in order here.

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

Further consideration will be given concerning this matter upon receipt of a request for **Reconsideration** (reconsideration should be accompanied by supporting document(s) such as, amendment, postcard receipt, 1449/892, etc.) and should be filed and directed to Decisions & Certificates of Correction Branch. A fee of $100.00 for the certificate of correction should accompany your request otherwise.

Ernest C. White, *LIE* (571) 572-3385
Mary F. Diggs, *Supervisor* (703) 756-1580
Decisions & Certificates of Correction Branch
ernest.white@uspto.gov

KILPATRICK TOWNSEND & STOCKTON LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

ECW

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SMITH FROHWEIN TEMPEL GREENLEE BLAHA, LLC
TWO RAVINIA DRIVE
SUITE 700
ATLANTA GA 30346

MAILED
APR 11 2011
OFFICE OF PETITIONS

In re Application of	:	
Sam JOHNSON	:	
Application No. 11/470,254	:	DECISION ON PETITION
Filed: September 06, 2006	:	
Attorney Docket No. 01003.1040	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 04, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, June 07, 2010, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on September 08, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $810.00, and (3) a proper statement of unintentional delay. Accordingly, the reply to the non-final Office action of June 07, 2010 is accepted as having been unintentionally delayed.

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

This application is being referred to Technology Center AU 3714 for appropriate action by the Examiner in the normal course of business on the reply received.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DINSMORE & SHOHL, LLP
FIFTH THIRD CENTER
ONE SOUTH MAIN STREET
SUITE 1300
DAYTON OH 45402

MAILED
MAR 15 2012
OFFICE OF PETITIONS

In re Patent No. 8,068,331	:	DECISION ON REQUEST
Sauers et al.	:	FOR
Issue Date: November 29, 2011	:	RECONSIDERATION OF
Application No. 11/470,329	:	PATENT TERM ADJUSTMENT
Filed: September 6, 2006	:	and
Title: ENCLOSURE TO PREVENT	:	NOTICE OF INTENT TO ISSUE
FLUID INGRESS OF A DEVICE	:	CERTIFICATE OF CORRECTION
HAVING A TOUCH SCREEN	:	
INTERFACE	:	

This is a decision on the petition filed on January 10, 2012, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand three hundred sixty-seven (1367) days.

The petition to correct the patent term adjustment indicated on the above-identified patent days is **GRANTED to the extent indicated herein.** The term of the above-identified patent is extended or adjusted by **one thousand three hundred eighty-two (1382) days.**

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

Patentee is correct that a period of reduction of 12 days pursuant to 37 CFR 1.704(c)(10) is warranted for the filing of a 1.312 amendment on August 12, 2011. A period of reduction of 12 days has been entered.

However, no reduction under 37 CFR 1.704(c)(10) is warranted for the request for continued examination (RCE) filed September 1, 2011. The RCE was filed in lieu of payment of the issue fee, and accordingly, any delay was calculated pursuant to 37 CFR 1.704(b). As the RCE was filed within 3 months of the mailing date of the notice of allowance, June 13, 2011, there was no applicant delay under 37 CFR 1.704(b).

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

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

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand three hundred eighty-two (1382) days**.

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

Nancy Johnson

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 8,068,331 B2

DATED : **November 29, 2011** **DRAFT**

INVENTOR(S) : Sauers 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 1576 days

Delete the phrase "by 1576 days" and insert – by 1382 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

Patent No. : 7,768,422 B2
Ser. No. : 11/470,424
Inventor(s) : Carmen, JR. ET AL.
Issued : Aug. 3, 2010
Title : METHOD OF RESTORING A REMOTE WIRELESS CONTROL DEVICE TO A
KNOWN STATE
Docket No. : P 10-798 V1293
Re: Request for Certificate of Correction

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

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MCGUIREWOODS, LLP
1750 TYSONS BLVD
SUITE 1800
MCLEAN VA 22102

MAILED
SEP 13 2010
OFFICE OF PETITIONS

In re Application of	:	
Gari D. Clifford	:	
Application No. 11/470,506	:	DECISION ON PETITION
Filed: September 6, 2006	:	
Attorney Docket No. 2058196-5001US	:	

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, April 9, 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 10, 2009. The Notice of Abandonment was mailed October 26, 2009.

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

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

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

This application is being referred to Technology Center AU 3762 for appropriate action by the Examiner in the normal course of business on the reply received.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

WHIRLPOOL PATENTS COMPANY – MD 0750
500 RENAISSANCE DRIVE – SUITE 102
ST. JOSEPH, MI 49085

MAILED

JAN 21 2011

OFFICE OF PETITIONS

In re Application of	:
Anna Kathryn Duncan et al	:
Application No. 11/470,658	: DECISION GRANTING PETITION
Filed: September 7, 2006	: UNDER 37 CFR 1.313(c)(3)
Attorney Docket No. US20050435	:

This is a decision on the petition filed January 20, 2011, which is being treated as a petition under 37 CFR 1.313(c)(3), to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

Petitioner requests that the above-identified application be withdrawn from issue for express abandonment in favor of a continuing application under 37 CFR 1.53(b).

The application is hereby withdrawn from issue, and the abandonment is hereby recognized.

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

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

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Mark A. Davis
McGarry Bair PC
32 Market Ave. SW, Suite 500

UNITED STATES PATENT AND TRADEMARK OFFICE

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

THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP
400 INTERSTATE NORTH PARKWAY SE
SUITE 1500
ATLANTA GA 30339

MAILED

FEB 07 2012

OFFICE OF PETITIONS

In re Application of :
Chien-Ming Chao et al. :
Application No. 11/470,667 : ON PETITION
Filed: September 7, 2006 :
Attorney Docket No: **251314-2970** :

This is a decision on the petition to withdraw the holding of abandonment, filed January 14, 2012, which is being treated under 37 CFR 1.181.

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

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181," or, as explained in more detail below, "...under 37 CFR 1.137(a)" or (b). This is not a final agency decision.

A Restriction Requirement mailed May 26, 2011 set the longer of one month or thirty days as the period for reply. No response to the Restriction Requirement having been timely filed, the application became abandoned June 28, 2011. Accordingly, a Notice of Abandonment was mailed January 6, 2012.

Petitioner argues that "the response to this restriction was fully prepared on or before June 26, 2011. The undersigned personally filed a response (via EFS) on June 10, 2011. Unbeknownst to the undersigned at that time, the undersigned uploaded the wrong document to the PTO's EFS system." Petitioner argues that pursuant to a telephone call from the Examiner on December 13, 2011, "the undersigned immediately re-filed the correct version of the response along with an explanation of what happened."

In view thereof, petitioner argues that the holding of abandonment should be withdrawn because they were not afforded an opportunity to correct the errors and because the Patent Office took over five months to review the uploaded submission.

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

At the outset, there is no evidence that the applicants filed a written response or query as is required by 37 CFR 1.2. Further, the fact that the examiner may not have an opportunity to review any response prior to the end of the period for reply does not relieve applicant of the responsibility to submit a complete and proper reply prior to the end of the statutory period for reply in order to avoid abandonment. Therefore, the argument that the Examiner caused or contributed to the abandonment is not well taken.

Since the arguments presented do not substantiate a finding that a proper response was filed to the May 26, 2011 Office Action, the holding of abandonment will not be withdrawn and the notice of abandonment will not be vacated.

Petitioner may wish to file a petition to revive under 37 CFR 1.137(b). Section 1.137(b) now provides that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

> (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof;
>
> (2) the petition fee as set forth in 37 CFR 1.17(m);
>
> (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Director may require additional information where there is a question whether the delay was unintentional; and
>
> (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

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

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

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

By FAX: (571) 273-8300

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP
400 INTERSTATE NORTH PARKWAY SE
SUITE 1500
ATLANTA GA 30339

MAILED

FEB 23 2012

OFFICE OF PETITIONS

In re Application of
Chien-Ming Chao et al.
Application No. 11/470,667
Filed: September 7, 2006
Attorney Docket No: **251314-2970**

ON PETITION

This is a decision on the petition filed February 13, 2012 under 37 CFR 1.137(b)[1].

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

A Restriction Requirement mailed May 26, 2011 set the longer of one month or thirty days as the period for reply. A response was filed December 13, 2011 although outside of the maximum period for response and outside the period of time for which an extension of time could have been filed, thus the application became abandoned June 28, 2011. Accordingly, a Notice of Abandonment was mailed January 6, 2012.

Petitioner argued in a petition filed January 14, 2012 that the holding of abandonment should be withdrawn because they were not afforded an opportunity to correct the errors and because the Patent Office took over five months to review the uploaded submission previously filed. The petition was dismissed in a decision mailed February 7, 2012 because the arguments presented did not substantiate a finding that a proper response was filed to the May 26, 2011 Office Action.

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[1]A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

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

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

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

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

Comes now petition with the instant petition to revive.

All other requirements under 37 CFR 1.137(b) having been met, this matter is being referred to Technology Center 2485 for treatment of the response to the May 26, 2011 filed December 13, 2011.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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 08 2010

OFFICE OF PETITIONS

In re Application of :
Mutsuo Morikado :
Application No. 11/470,859 : DECISION GRANTING PETITION
Filed: September 7, 2006 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 296067US2 :

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 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) 272-3208.

This application is being referred to Technology Center AU 2894 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 1/26/11

TO SPE OF : ART UNIT 3761

SUBJECT : Request for Certificate of Correction for Appl. No.: 11470926 Patent No.: 7826891

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.

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

Comments:

/Niketa I. Patel/ **SPE**

3762 **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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XIN WEN
3449 RAMBOW DRIVE
PALO ALTO CA 94306

MAILED

AUG 27 2010

OFFICE OF PETITIONS
ON PETITION

In re Application of
Huang, et al.
Application No.: 11/470,947
Filed: September 7, 2006
Attorney Docket No: **DYNADX004**

This is a decision on the renewed petition under 37 CFR 1.137(b), filed July 15, 2010.

The renewed petition is **GRANTED**.

This application became abandoned for failure to respond in a timely manner to the non-final Office action mailed August 27, 2007. The notice set a shortened statutory period for reply of three-months from its mailing date. Extensions of time were available pursuant to 37 CFR 1.136(a). A response was not received within the allowable period and the application became abandoned on November 28, 2007. A Notice of Abandonment was mailed on April 4, 2008.

The amendment filed May 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
www.uspto.gov

Decision Date : November 14,2011

In re Application of :

Herbert Pardo

Application No : 11470952

Filed : 07-Sep-2006

Attorney Docket No : MPWR-0005

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 November 14,2011

The request is **APPROVED.**

The request was signed by Christopher M. Arena (registration no. 35429) on behalf of all attorneys/agents associated with Customer Number 23377 . All attorneys/agents associated with Cusotmer Number 23377 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	Herbert Pardo
Name2	c/o Magnetic Power, Inc.
Address 1	Cra 17, 1A-30th
Address 2	
City	Manizales,
State	
Postal Code	1A-30th
Country	CO

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	11470952
Filing Date	07-Sep-2006
First Named Inventor	Herbert Pardo
Art Unit	3746
Examiner Name	BRYAN LETTMAN
Attorney Docket Number	MPWR-0005
Title	Gas Compressor

◉ Please withdraw me as attorney or agent for the above identified patent application and the practitioners of record associated with Customer Number: 23377

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	Herbert Pardo c/o Magnetic Power, Inc.
Address	Cra 17, 1A-30th
City	Manizales,
State	
Postal Code	1A-30th
Country	CO

I am authorized to sign on behalf of myself and all withdrawing practitioners.	
Signature	/Christopher M. Arena/
Name	Christopher M. Arena
Registration Number	35429

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 07 2011
OFFICE OF PETITIONS

FOLEY & LARDNER LLP
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON WI 53701-1497

In re Application	:
Bart F. Rice	:
Application No. 11/470,967	: DECISION ON APPLICATION
Filed: September 7, 2006	: FOR PATENT TERM ADJUSTMENT
Attorney Docket No. 088245-3392	:

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT FOR PATENT APPLICATION UNDER 37 C.F.R. §1.705(b) filed January 28, 2011. Applicant requests that the determination of patent term adjustment be corrected from 442 to 604 days. Applicant requests this correction in part on the basis that the Office will take in excess of three years to issue this patent and is considered in light of the recent court decision in light of the Court of Appeals for the Federal Circuit's decision in *Wyeth v. Kappos*, 2009-1120 (Fed. Cir. 1-7-2010).

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

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

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

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

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

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

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

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

THE LAW OFFICE OF DEEPTI PANCHAWAGH - JAIN
C/O CPA GLOBAL
PO BOX 52050
MINNEAPOLIS MN 55402

MAILED

NOV 22 2010

OFFICE OF PETITIONS

In re Application of	:	
Olivier Theytaz, et al.	:	
Application No. 11/471,084	:	DECISION GRANTING PETITION
Filed: June 20, 2006	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 010C-012100	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, November 19, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on October 18, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to 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.*

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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AUG 03 2010

OFFICE OF PETITIONS

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

In re Patent No.7,666,096	:	
Manuel Rafael Gutierrez Novelo	:	DECISION FOR REQUEST
Issue Date : February 23, 2010	:	FOR RECONSIDERATION
Application No. 11/471,280	:	OF PATENT TERM
Filed: June 19, 2006	:	ADJUSTMENT
Attorney Docket No. TDVS.001C1	:	

This is a decision on the "Application for Patent Term Adjustment," filed April 23, 2010. Patentees request that the patent term adjustment indicated on the face of the Letters of Patent be corrected from zero (0) days to one hundred ninety-one (191) days.

The request for reconsideration of the patent term adjustment indicated in the patent is **GRANTED to the extent indicated herein**.

Patentees are given **THIRTY (30) DAYS or ONE (1) MONTH, whichever is longer**, from the mail date of this decision to respond. No extensions of time will be granted under 37 CFR 1.136.

Patentees dispute the reduction of 64 days for the filing of a certified copy of a priority document on December 22, 2009, after the mailing of the notice of allowance pursuant to 37 CFR 1.704(c)(10). Specifically, patentees assert that the Office mailed a "Priority Acknowledgement" in response to the priority document on January 13, 2010. Patentees contend that the period of reduction should be 26 days (not 64 days).

It is noted that 37 CFR 1.704(c)(10) provides that:

> Submission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the lesser of:

(i) The number of days, if any, beginning on the date the amendment under § 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or such other paper;

or

(ii) Four months;

In this instance, the record reveals that the Office took action in response to the filing of the priority document on January 13, 2010. Accordingly, the period of adjustment of the term of the patent should have been reduced by 23 days, beginning on the date the priority document was filed, December 22, 2009, and ending on the mailing date of the response to the priority document, January 13, 2010. Accordingly, the period of reduction of 64 days will be removed and a period of reduction of 23 days will be entered.

As to all other arguments made in the petition filed April 23, 2010, the request for reconsideration of the patent term adjustment under 37 CFR 1.705(d) is **DISMISSED**.

On February 23, 2010, the above-identified application matured into U.S. Patent No. 7,666,096, with a revised patent term of 0 days. The instant request for reconsideration filed April 23, 2010, was timely filed within two months of the date the patent issued. See § 1.705(d).

No consideration will be given to any of patentees' other arguments which were properly made pursuant to 37 CFR 1.705(b). Further to this point, PALM records indicate that the issue fee payment was received in the Office on January 4, 2010. An application for patent term adjustment did not precede the payment of the issue fee. Thus, patentees failed to timely raise these issues that occurred prior to the mailing of the Notice of Allowance. The period for filing an application for patent term adjustment requesting reconsideration of the initial determination of patent term adjustment at the time of mailing of the notice of allowance ended January 4, 2010. Accordingly, relative to all other arguments, except the matter of the reduction under 37 CFR 1.704(c)(10) addressed previously, it is appropriate to dismiss this petition as untimely filed under § 1.705(b).

Further, consideration under § 1.705(d) is not appropriate. As stated in MPEP 2730, § 1.703(d) provides that:

> If there is a revision to the patent term adjustment indicated in the notice of allowance, the patent will indicate the revised patent term adjustment. If the patent indicates or should have indicated a revised patent term adjustment, any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued and must comply with the requirements of paragraphs (b)(1) and (b)(2) of this section. Any request for reconsideration under this section that raises issues that were raised, or could have been raised, in an application for patent term adjustment under paragraph (b) of this section shall be dismissed as untimely as to those issues.

In view thereof, the Office affirms that the revised determination of patent term adjustment at the time of the issuance of the patent is 0 days.

In view thereof, the patent term adjustment of 0 days indicated in 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.

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

By Mail: Mail Stop Petition
Commissioner 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 specific to this matter should be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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BASF CATALYSTS LLC
100 CAMPUS DRIVE
FLORHAM PARK NJ 07932

MAILED

AUG 11 2011

OFFICE OF PETITIONS

In re Application of :
Lawrence Shore :
Application No. 11/471,324 :
Filed: June 20, 2006 :
Attorney Docket No. 5325 :

DECISION ON PETITION

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Office action under Ex parte Quayle, 1935 Dec. Comm'r Pat. 11 (1935), mailed May 4, 2010, 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 July 5, 2010. A Notice of Abandonment was mailed on February 22, 2011.

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

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

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 1727 for appropriate action by the Examiner in the normal course of business on the reply received July 26, 2011.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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BLANK ROME LLP
WATERGATE
600 NEW HAMPSHIRE AVENUE, N.W.
WASHINGTON DC 20037

MAILED
FEB 22 2011
OFFICE OF PETITIONS

In re Application of	:	
FREISHTAT	:	
Application No. 11/471,417	:	DECISION ON PETITION
Filed: June 21, 2006	:	
Attorney Docket No. 130866.0101	:	

This is a decision on the petition filed April 16, 2010, under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the Notice of Allowability (Notice), mailed December 11, 2009, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on March 12, 2010. A Notice of Abandonment was mailed March 26, 2010.

Petitioner asserts that no reply was submitted because the Notice mailed December 11, 2009, required that corrections be made as indicated in the Office Action dated August 28, 2008. However, the Office action of August 28, 2008, "merely noted that the drawings submitted on June 21, 2006 is informal. No changes or correction is required." Petitioner states "in an interview with the Examiner on April 5, 2010, the Examiner confirmed no drawing correction is required and that the abandonment was an error."

A review of the Office record confirms that the Examiner did in fact state in the Interview Summary of April 5, 2010, that the "Office Action mailed August 28, 2008, which was referenced in the Notice of Allowance mailed December 11, 2009, only noted to Applicant that the drawings were informal and that no correction was needed." Further, the Interview Summary of April 5, 2010, notes that the "Notice of Abandonment mailed March 26, 2010, was improper and should be removed."

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 Diane Goodwyn at (571) 272-6735.

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

Thurman K. Page
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/471,436	06/20/2006	William H. Fenstermaker	FENSTERMAKER BLINK	2809

63082 7590 05/31/2011
LEMOINE & ASSOCIATES L.L.C.
1018 Harding St.
Suite 102B
LAFAYETTE, LA 70503

EXAMINER
JARRETT, SCOTT L

ART UNIT	PAPER NUMBER
3624	

MAIL DATE	DELIVERY MODE
05/31/2011	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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May 29, 2011

LEMOINE & ASSOCIATES L.L.C.
1018 Harding St.
Suite 102B
LAFAYETTE LA 70503

In re Application of	:	
William H. Fenstermaker et al.	:	**DECISION ON PETITION**
Application No. 11471436	:	
Filed: 06/20/2006	:	
Attorney Docket No. **FENSTERMAKER BLINK**	:	

This is a decision on the Petition to Accept Color Drawings under 37 C.F.R 1.84 (a) (2), received in the United States Patent and Trademark Office (USPTO) June 20, 2006.

The petition is **DISMISSED.**

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

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

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

The petition did not meet the following requirement(s). 1 ☐ 2 ☐ 3 ☑

A renewed petition filed under 37 C.F.R. 1.84 (a) (2) must be filed within TWO (2) MONTHS of this decision. If a renewed petition is not filed within the TWO (2) Months of this decision the drawings will be printed in black and white.

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

/Laura L. Feldman/
Quality Control Specialist
Office of Data Management
Publications Branch

UNITED STATES PATENT AND TRADEMARK OFFICE

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

July 26, 2011

LEMOINE & ASSOCIATES L.L.C.
1018 Harding St.
Suite 102B
LAFAYETTE LA 70503

In re Application of	:	
William H. Fenstermaker et al.	:	**DECISION ON PETITION**
Application No. 11471436	:	
Filed: 06/20/2006	:	***ACCEPTANCE OF COLOR***
Attorney Docket No. **FENSTERMAKER BLINK**	:	***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) July 7, 2011.

The petition is **GRANTED**.

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

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

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

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

/Laura Feldman/
Quality Control Specialist
Office of Data Management
Publications Branch

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/471,605	06/21/2006	Osamu Chiba	403743	3523

7590 10/12/2010
LEYDIG VOIT & MAYER, LTD
700 THIRTEENTH ST. NW
SUITE 300
WASHINGTON, DC 20005-3960

EXAMINER
KAWSAR, ABDULLAH AL

ART UNIT	PAPER NUMBER
2195	

NOTIFICATION DATE	DELIVERY MODE
10/12/2010	ELECTRONIC

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Nioni Farmer

Patent Publication Branch
Office of Data Management

Adjustment date: 10/12/2010 VFARMER

FORM PET651G (Rev. 08/07)

UNITED STATES PATENT AND TRADEMARK OFFICE

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P.O. BOX 3001
BRIARCLIFF MANOR NY 10510

MAILED
DEC 20 2011
OFFICE OF PETITIONS

In re Application of	:	
Neil David Glossop et al.	:	
Application No. 11/471,629	:	ON PETITION
Filed: June 21, 2006	:	
Attorney Docket No.	:	
2005P03269WOUS		

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

The petition is **DISMISSED**.

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

This 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 from the Notice of Panel Decision from Pre-Appeal Brief Review (Notice) of March 16, 2011, or the balance time from the two (2) months of the Notice of Appeal, whichever is greater 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 17, 2011. *See* MPEP 1215.04.

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

The Office is questioning the statement of unintentional delay in the instant petition. It is stated in the Abandonment Notice dated October 3, 2011, by the Examiner that "Examiner called attorney of record Frank Keegan on September 21, 2011 and he confirmed the **application was intended to be abandoned**" (Emphasis added). 35 U.S.C. § 41(a)(7) authorizes the Commissioner 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 there is a question whether the 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). Here, in view of petitioners' intentional delay in filing the reply that originally resulted in the abandonment, there is a question whether the entire delay was unintentional.

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

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

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

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

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

JoAnne Burke
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/471,640	06/21/2006	Masaaki Ishida	292774US2	3424

22850 7590 03/29/2011
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER
CHWASZ, JADE R

ART UNIT	PAPER NUMBER
2872	

NOTIFICATION DATE	DELIVERY MODE
03/29/2011	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 DEPARTMENT OF COMMERCE
U.S. Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
11471640	6/21/2006	ISHIDA ET AL.	292774US2

EXAMINER
STEPHONE B.. ALLEN

ART UNIT	PAPER
2872	20110324

DATE MAILED:

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

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

Commissioner for Patents

This action is in response to the petition for consideration of an IDS filed under 37 C.F.R. 1.181(a)(3) on February 18, 2011, in which applicant requested consideration of an IDS that was filed on February 02. 2011.

Since the examiner's consideration of the IDS (filed on February 02, 2011) was mailed on February 16, 2011, the petition is being dismissed as MOOT.

Any inquiry concerning this communication should be directed to STEPHONE B. ALLEN at telephone number (571)272-2434.

/Stephone B. Allen/
Supervisory Patent Examiner, Art Unit 2872

Receipt date: 02/02/2011 11471640 - GAU: 2872

SHEET 1 OF 1

Form PTO 1449 (Modified) U.S. DEPARTMENT OF COMMERCE PATENT AND TRADEMARK OFFICE	ATTY DOCKET NO. 292774US2	SERIAL NO. 11/471,640
LIST OF REFERENCES CITED BY APPLICANT	APPLICANT Masaaki ISHIDA, et al.	
	FILING DATE June 21, 2006	GROUP 2872

U.S. PATENT DOCUMENTS

EXAMINER INITIAL		DOCUMENT NUMBER	DATE	NAME	CLASS	SUB CLASS	FILING DATE IF APPROPRIATE
	AA						
	AB						
	AC						
	AD						
	AE						
	AF						
	AG						
	AH						
	AI						
	AJ						
	AK						
	AL						
	AM						
	AN						

FOREIGN PATENT DOCUMENTS

		DOCUMENT NUMBER	DATE	COUNTRY	TRANSLATION YES	TRANSLATION NO
/J.C./	AO	JP 2004-181648	7/2/2004	JAPAN (with English Abstract)		X
/J.C./	AP	JP 11-095141	4/9/1999	JAPAN (with English Abstract)		X
	AQ					
	AR					
	AS					
	AT					
	AU					
	AV					

OTHER REFERENCES (Including Author, Title, Date, Pertinent Pages, etc.)

/J.C./	AW	Office Action issued November 10, 2010, in Japan, Patent Application No. 2005-180020, filed June 21, 2005
	AX	
	AY	
	AZ	

☐ Additional References sheet(s) attached

Examiner /Jade Chwasz/ Date Considered 02/10/2011

*Examiner: Initial if reference is considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

ALL REFERENCES CONSIDERED EXCEPT WHERE LINED THROUGH. /J.C./

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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Oblon, Spivak, Mcclelland Maier & Neustadt, L.L.P.
1940 Duke Street
Alexandria, VA 22314

MAILED

JAN 14 2011

PCT LEGAL ADMINISTRATION

In re Application of: GIBERT et al.
Serial No.: 11/471,702
Filing Date: June 21, 2006
Atty. Docket No.: 292826US0DIV
For: CLOSTRIDIUM TOXIN, AND PROCESS FOR THE PREPARATION OF IMMUNOGENIC COMPOSITION

DECISION ON PETITION UNDER 37 CFR 1.78

This decision is issued in response to applicants' "Petition under 37 CFR 1.78(a)(6)" filed September 14, 2010. Since, the petition seeks acceptance of a claim under 35 U.S.C. § 120 for the benefit of the prior filed international application (PCT/FR1998/001999), the petition has been treated as a petition under 37 CFR 1.78(a)(3).

The petition is DISMISSED without prejudice.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those application 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).

However, on June 14, 2010, a final rejection was mailed and the examiner has indicated that the amendment after final rejection submitted with the present petition would not be entered because the amendment raises new issues which would require further consideration and/or search. Therefore, the present petition cannot be granted at this time.

Any request for reconsideration of this petition must be accompanied by a cover letter entitled "Renewed Petition under 37 CFR 1.78(a)(3)" and must include the appropriate reply to continue prosecution of the instant application.

Any question concerning this matter may be directed to Anthony Smith at (571)-272-3298.

The application is being referred to the examiner for issuance of an Advisory Action concerning the amendment filed September 14, 2010.

Boris Milef
Legal Examiner
Office of PCT Legal Administration

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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1940 Duke Street
Alexandria, VA 22314

MAILED
JUN 03 2011
PCT LEGAL ADMINISTRATION

In re Application of
GIBERT et al.
Serial No.: 11/471,702
Filing Date: June 21, 2006
Atty. Docket No.: 292826US0DIV
For: CLOSTRIDIUM TOXIN, AND PROCESS FOR THE PREPARATION OF IMMUNOGENIC COMPOSITION

DECISION

This decision is issued in response to applicants' "Renewed Petition under 37 CFR 1.78(a)(6)" filed March 15, 2011. Since, the petition seeks acceptance of a claim under 35 U.S.C. § 120 for the benefit of the prior filed international application (PCT/FR98/01999), the petition has been treated as a petition under 37 CFR 1.78(a)(3).

The petition is GRANTED.

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

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

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

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

included in an amendment filed with the previous petition, as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the prior-filed international application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

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

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

Any inquiries concerning this decision may be directed to Anthony Smith, Attorney Advisor, at (571) 272-3298. 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 1645 for appropriate action on the amendment submitted March 15, 2011, including consideration by the examiner of the claim for benefit of the prior-filed applications.

Boris Milef
Legal Examiner
Office of PCT Legal Administration

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/471,765	06/21/2006	Steve Joe Plehn	63,814A	3165

25212 7590 10/15/2010
DOW AGROSCIENCES LLC
9330 ZIONSVILLE RD
INDIANAPOLIS, IN 46268

EXAMINER
KRUSE, DAVID H

ART UNIT	PAPER NUMBER
1638	

MAIL DATE	DELIVERY MODE
10/15/2010	PAPER

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

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

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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OCT 1 5 2010

DOW AGROSCIENCES LLC
9330 ZIONSVILLE RD
INDIANAPOLIS IN 46268

In re Application of:
Plehn et al.
Serial No.: 11/471,765
Filed: June 21, 2006
Attorney Docket No.: **63,814A**

: PETITION DECISION

This is in response to the renewed petition under 37 CFR § 1.59(b), filed September 8, 2010, to expunge information from the above identified application. This application has been allowed.

Petitioner requests that the Declaration Under 37 CFR 1.132 submitted to the Patent Office on June 30, 2009 be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

The reasons set forth in this petition establishes to the satisfaction of the Director that expungement of the information is appropriate. The file entry for this document has been closed and as such the document is no longer publicly available, which is the IFW equivalent to removal of a paper document from a paper file wrapper.

Therefore, petitioner's petition is GRANTED.

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

Marianne C. Seidel
Quality Assurance Specialist
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/471,865	06/21/2006	Maurice V. Garoutte	CERN-018/01US 308064-2072	3226

7590 09/23/2010

COOLEY LLP
ATTN: Patent Group
Suite 1100
777 - 6th Street, NW
WASHINGTON, DC 20001

EXAMINER
ALLISON, ANDRAE S

ART UNIT	PAPER NUMBER
2624	

MAIL DATE	DELIVERY MODE
09/23/2010	PAPER

ACKNOWLEDGEMENT OF REQUEST

Notice of Allowance/Allowability Mailed

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

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

FORM PTOM327-5 (Rev. 02/08)

UNITED STATES PATENT AND TRADEMARK OFFICE

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

September 22, 2010

COOLEY LLP
ATTN: Patent Group
Suite 1100
777 - 6th Street, NW
WASHINGTON DC 20001

In re Application of	:	
Maurice V. Garoutte, et al	:	**DECISION ON PETITION**
Application No. 11471865	:	
Filed: 06/21/2006	:	***ACCEPTANCE OF COLOR DRAWINGS***
Attorney Docket No. CERN-018/01US 308064-2072	:	

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

Note: Only one set of drawings is required when petition is filed via EFS WEB.

The petition was accompanied by all of the requirements above. Therefore, the petition is GRANTED.

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

/Kimberly Terrell/
Manager
Office of Data Management

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

MAILED

JUL 15 2011

OFFICE OF PETITIONS

In re Application of	:	
RUDELIC	:	
Application No. 11/472,028	:	DECISION ON PETITION
Filed: February 10, 2006	:	
Attorney Docket No. 4767C	:	

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**.

The application became abandoned for failure to timely pay the issue and publication fees on or before May 10, 2011, as required by the Notice of Allowance and Fee(s) Due (Notice), mailed February 10, 2011, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on May 11, 2011. A Notice of Abandonment was mailed May 31, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1510 and the publication fee of $300; (2) the petition fee of $1620; and (3) a statement of unintentional delay.

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

DUNLAP CODDING, P.C.
PO BOX 16370
OKLAHOMA CITY OK 73113

MAILED
DEC 20 2010
OFFICE OF PETITIONS

In re Application of	:	
Weder	:	
Application No. 11/472,039	:	DECISION ON PETITION
Filed: June 21, 2006	:	PURSUANT TO 37 C.F.R.
Attorney Docket Number:	:	§ 1.137(B)
8404.318	:	
Title: CALLAPSIBLE PLAQUE FOR	:	
CASKET OR HEADSTONE	:	

This is a decision on the petition filed September 29, 2010, pursuant to 37 C.F.R. § 1.137(b), to revive the above-identified application.

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

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed February 17, 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 May 18, 2010. A notice of abandonment was mailed on August 26, 2010.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in 37 C.F.R. § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply

until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;

(4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

With this petition, Petitioner has submitted the petition fee and the proper statement of unintentional delay. Petitioner has further indicated that a continuation application has been filed.

Office records confirm that continuation application no. 12/893,120 was filed on September 29, 2010.

The first three requirements of Rule 1.137(b) have been met. The fourth requirement of Rule 1.137(b) is not applicable, as a terminal disclaimer is not required.[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 application number 12/893,120.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[2] All other inquiries concerning examination procedures should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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1 See Rule 1.137(d).

2 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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KLARQUIST SPARKMAN LLP
121 SW SALMON STREET
SUITE 1600
PORTLAND OR 97204

MAILED

SEP 30 2010

OFFICE OF PETITIONS

In re	:	
Patent No. 7,623,154	:	DECISION ON PETITION
Issued: November 24, 2009	:	
Application No. 11/472,067	:	
Filed: June 21, 2006	:	

This is a decision on the petition under 37 CFR 1.182, filed April 27, 2010, for an additional Letters Patent.

The petition under 37 CFR 1.182 is **GRANTED**.

The Publishing Division is directed to issue a duplicate Letters Patent.

Any questions concerning this decision may be directed to the undersigned at (571)272-3207. Any questions concerning issuance of the duplicate Letters Patent should be directed to Ollie Person at (703)756-1555.

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

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

Cliff Congo
Petitions Attorney
Office of Petitions

cc: Ollie Person, P/OPPD (FAX 571-270-9764)
Kimberly Terrell, P/OPPD (FAX 571-270-9958)

UNITED STATES PATENT AND TRADEMARK OFFICE

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HOFFMANN-LA ROCHE INC
PATENT LAW DEPARTMENT
340 KINGSLAND STREET
NUTLEY NJ 07110

MAILED

AUG 02 2010

OFFICE OF PETITIONS

In re Application of	:	
Alanine, et al.	:	
Application No. 11/472,081	:	ON REQUEST FOR
Filed: June 21, 2006	:	RECONSIDERATION OF
Attorney Docket Number: 23183 US	:	PATENT TERM ADJUSTMENT

This is a decision on the petition under 37 CFR 1.705(b), filed January 20, 2010. Applicants believe that they should be accorded an additional PTA of 384 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 **six hundred seventy-three (673) days** (673 days of PTO delay, reduced by 0 days of Applicant delay).

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

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

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

Anthony Knight
Director
Office of Petitions

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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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HOFFMANN-LA ROCHE INC
PATENT LAW DEPARTMENT
340 KINGSLAND STREET
NUTLEY NJ 07110

MAILED
AUG 02 2010
OFFICE OF PETITIONS

In re Application of	:	
Alanine, et al.	:	
Application No. 11/472,084	:	ON REQUEST FOR
Filed: June 21, 2006	:	RECONSIDERATION OF
Attorney Docket Number: 23184	:	PATENT TERM ADJUSTMENT

This is a decision on the petition under 37 CFR 1.705(b), filed January 20, 2010. Applicants believe that they should be accorded an additional PTA of 384 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 **six hundred seventy-three (673) days** (673 days of PTO delay, reduced by 0 days of Applicant delay).

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

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

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

Anthony Knight
Director
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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CANON U.S.A. INC. INTELLECTUAL PROPERTY DIVISION
15975 ALTON PARKWAY
IRVINE, CA 92618-3731

MAILED
MAR 30 2011
OFFICE OF PETITIONS

In re Application of	:	
Eiichiro Ikeda	:	
Application No. 11/472,096	:	DECISION GRANTING PETITION
Filed: June 20, 2006	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 10020681US01	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 29, 2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on March 2, 2011 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries 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 2622 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Mail Date: 08/04/2010

Applicant	: Gregory W. Hahn	: DECISION ON REQUEST FOR
Patent Number	: 7641456	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/472,105	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/21/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **413** 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
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GARLICK HARRISON & MARKISON
PO BOX 160727
AUSTIN TX 78716-0727

MAILED
OCT 25 2011
OFFICE OF PETITIONS

In re Application of	:	
Kevin W. McGinnis	:	
Application No. 11/472,129	:	ON PETITION
Filed: June 21, 2006	:	
Attorney Docket No. BP5316	:	

This is a decision on the renewed petition to withdraw the holding of abandonment under 37 CFR 1.181, filed May 4, 2009.

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

The above-identified application became abandoned for failure to timely file a response to the final Office action mailed August 6, 2008. This Office action set a shortened statutory period for reply of three (3) months. No reply having been received, the application became abandoned on November 7, 2008. The Office mailed a Notice of Abandonment on March 6, 2009. Applicant filed a petition to withdraw the holding of abandonment on March 30, 2009, stating that he never received the August 6, 2008 Office action. However, the petition was dismissed in a decision mailed on April 23, 2009.

To establish non-receipt of an Office action, a petitioner:

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

> used by the practitioner where the non-received Office action would have been entered had it been received is required.[1]

In addition, the Manual of Patent Examining Procedure § 711.03(c) also states:

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

With the instant renewed petition, petitioner has submitted a copy of a master docket report, showing all of the firm's replies docketed for a due date of November 6, 2008. An entry for the instant application does not appear, supporting the conclusion that the August 6, 2008 Office action was not received. In addition, petitioner has satisfied the other elements to demonstrate non-receipt as set forth above.

The application is being forwarded to Group Art Unit 2182 for re-mailing of the August ,6 2008 Office action to the above address of record, setting a new period for reply.

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

Cliff Congo
Petitions Attorney
Office of Petitions

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[1] MPEP 711.03(c).

PTO/SB/131 (01-10)
Approved for use through 02/28/2011. OMB 0651-0020
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REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH**

Attorney Docket Number: CHEN3982/REF	Patent Number: 7666232
Filing Date (or 371(b) or (f) Date): 2006-06-22	Issue Date: 2010-02-23
First Named Inventor: Weng-Jang Chen	
Title: REACTIVE TRICHROMATIC DYE SET	

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 2010-08-19
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.

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Instruction Sheet for: REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH**

(Not to be Submitted to the USPTO)

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

This form must be filed within 180 days of the day the patent was granted, with the following exception:

> Patentees who received a decision from the USPTO under the USPTO's pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A) may file a request for reconsideration of that decision if such a request for reconsideration is filed within **two months** of the date of the decision (37 CFR 1.181(f)). If the patentee's sole basis for requesting reconsideration of the decision is the USPTO's pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A), the request for reconsideration need only state that reconsideration is being requested in view of Wyeth (this form may be used for this purpose if it is filed within **two months** of the date of the decision from the USPTO).

Do not use this form if the application has been allowed, but not yet issued as a patent.

1. **For patents issued before March 2, 2010:** A request for reconsideration under 37 CFR 1.705(d) and the fee set forth in 37 CFR 1.18(e) are not required, provided that the patentee's sole basis for requesting recalculation of the PTA in the patent is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A) and this form is filed within 180 days of the day the patent was granted.

2. **For patents issued on or after March 2, 2010 (do not use this form):** Patentees seeking a revised PTA in a patent issued on or after March 2, 2010, must file a request for reconsideration under 37 CFR 1.705(d) that complies with the requirements of 37 CFR 1.705(b)(1) and (b)(2) within two months of the day the patent issued.

For more information, see "Notice Concerning Calculation of the Patent Term Adjustment With Respect to the Overlapping Delay Provision of 35 U.S.C. 154(b)(2)(A)" available on the USPTO Web site at http://www.uspto.gov/patents/law/notices/2010.jsp.

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

Privacy Act Statement

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

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

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

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

Mail Date: 09/13/2010

Applicant	: Wen-Jang Chen	: DECISION ON REQUEST FOR
Patent Number	: 7666232	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/472,359	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/22/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **180** 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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JAN 27 2011

OFFICE OF PETITIONS

CALFEE HALTER & GRISWOLD, LLP
800 SUPERIOR AVENUE
SUITE 1400
CLEVELAND OH 44114

In re Application of
Goertzen, et al.
Application No. 11/472,509
Filed: June 20, 2006
Attorney Docket No. **12873/05324**

ON PETITION

This is a decision on the petition under 37 CFR 1.78(a)(6), filed September 29, 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 Kenya A. McLaughlin at (571) 272-3222. 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 GAU 3616 for consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to the prior-filed provisional application.

Chris Bottorff
Supervisor
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/472,509	06/20/2006	3616	3450	12873/05324	45	9

CONFIRMATION NO. 4881

CORRECTED FILING RECEIPT

24024
CALFEE HALTER & GRISWOLD, LLP
800 SUPERIOR AVENUE
SUITE 1400
CLEVELAND, OH 44114

OC000000045662043

Date Mailed: 01/26/2011

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

Applicant(s)

Gerold Goertzen, Brunswick, OH;
William A. Null JR., Sullivan, OH;
Robert L. Cuson, Lagrange, OH;

Power of Attorney: The patent practitioners associated with Customer Number 24024

Domestic Priority data as claimed by applicant

This application is a CIP of 10/695,045 10/27/2003 PAT 7,083,195
which is a CIP of 10/643,010 08/18/2003 PAT 6,851,711
This application 11/472,509
is a CON of 11/077,483 03/10/2005 PAT 7,293,801
and said 10/643,010 08/18/2003
claims benefit of 60/421,178 10/25/2002

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

If Required, Foreign Filing License Granted: 07/25/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/472,509**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Suspension for wheeled vehicles

Preliminary Class

280

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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George R. Schultz
Schultz & Associates, P.C.
One Lincoln Centre
5400 LBJ Freeway, Suite 1200
Dallas, TX 75240

MAILED

JAN 10 2011

OFFICE OF PETITIONS

In re Application of	:	
George Robert Gregory, et al.	:	
Application No. 11/472,605	:	DECISION ON PETITION
Filed: June 22, 2006	:	TO WITHDRAW
Attorney Docket No. 10152.0111	:	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 December 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 R. Schultz 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 correspondence will be directed to the first named inventor George Robert Gregory at the address indicated below.

There is an outstanding Office action mailed December 1, 2010 that requires a reply from 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: **George Robert Gregory**
P.O. Box 8572
Tyler, TX 75711

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/472,605	06/22/2006	George Robert Gregory	10152.0111

CONFIRMATION NO. 4767

POWER OF ATTORNEY NOTICE

OC000000045331708

George R. Schultz
Schultz & Associates, P.C.
One Lincoln Centre
5400 LBJ Freeway, Suite 1200
Dallas, TX 75240

Date Mailed: 01/06/2011

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 12/13/2010.

- 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.

/tsjohnson/

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

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OFFICE OF PETITIONS

ALEXIUS, LLC
904 SILVER SPUR RD., #310
ROLLING HILLS ESTATES CA 90274

In re Patent No. 7,284,436	:	
Issue Date: October 23, 2007	:	
Application No. 11/472,638	:	ON PETITION
Filed: June 21, 2006	:	
Attorney Docket No. COLEMAN003	:	

This is a decision on the petition under 37 CFR 1.378(c), filed November 25, 2011, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on October 24, 2011 for failure to pay the first maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

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

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

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

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EHUD MENDELSON
GAMBA GROUP LLC
11190 HERON BAY BLVD.
SUITE 916
CORAL SPRINGS FL 33076

MAILED

OCT 25 2010

OFFICE OF PETITIONS

In re Application of	:	
Ehud MENDELSON	:	
Application No. 11/472,706	:	DECISION ON PETITION
Filed: June 22, 2006	:	
Attorney Docket No. coolspot	:	

This is a decision on the petition, filed July 02, 2010, which is being treated as a petition under 37 CFR 1.8(b), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner within one (1) month of the Notification of Non-Compliance mailed July 17, 2009. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on August 18, 2009.

Petitioner states that a timely reply was mailed via express mail on August 14, 2009. Petitioner has submitted a copy of the previously mailed correspondence, which bears an express mail date of August 14, 2009 and a copy of the USPS return receipt with a date stamped of August 17, 2009, which would have rendered the reply timely if received.

The file record does not include the originally submitted papers. Failure to receive correspondence which includes a certificate of mailing or certificate of facsimile transmission is addressed in 37 CFR 1.8(b), reproduced below:

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

(1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;

(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and

(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

The petition satisfies the above requirements of 37 CFR 1.8(b). Accordingly, the holding of abandonment for failure to timely file a reply to the Office action of July 17, 2009 is hereby withdrawn and the application restored to pending status.

The copy of the reply received with the petition will be accepted in place of the reply shown to have been mailed (or transmitted by facsimile) on August 14, 2009.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at (571) 272-4231.

This application is being referred to Technology Center AU 3662 for appropriate action in the normal course of business on the reply received with petition.

Thurman K. Page

Thurman K. Page
Petitions Examiner
Office of Petitions

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3404 E. HARMONY ROAD
MAIL STOP 35
FORT COLLINS, CO 80528

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SEP 0 1 2011

OFFICE OF PETITIONS

In re Application of :
Jonathan Yen, et al. :
Application No. 11/472,712 : ON PETITION
Filed: June 21, 2006 :
Attorney Docket No.: 200503878-1 :

This is a decision in response to the petition, filed July 14, 2011, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

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

The petition is **GRANTED**.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action of October 28, 2010. A Notice of Abandonment was subsequently mailed on June 9, 2011. On July 14, 2011, the present petition was filed.

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

This application is being referred to Technology Center AU 2624 for appropriate action in the normal course of business on the reply received July 14, 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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 20101220

DATE : 11/28/10

TO SPE OF : ART UNIT 2452

SUBJECT : Request for Certificate of Correction for Appl. No.: 11472807 Patent No.: 7827256

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

You can fax the Director's/SPE response to 571-270-9990

Lamonte Newsome
Certificates of Correction Branch
571-272-3421

Thank You For Your Assistance

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

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

Comments: _____

/Thu V. Nguyen/ 2452
SPE **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

UNITED STATES 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 17 2010
OFFICE OF PETITIONS

NOVO NORDISK, INC.
INTELLECTUAL PROPERTY DEPARTMENT
100 COLLEGE ROAD WEST
PRINCETON NJ 08540

In re Patent No. 7,807,242	: DECISION ON APPLICATION FOR
Issued: October 5, 2010	: PATENT TERM ADJUSTMENT and
Application No. 11/472,831	: NOTICE OF INTENT TO ISSUE
Filed: June 22, 2006	: CERTIFICATE OF CORRECTION
Dkt. No.: 6866.204-US	:

This is a decision on the petition filed December 3, 2010 requesting that the patent term adjustment be increased from 913 days to 926 days.

The request for reconsideration of the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein.**

The patent is entitled to an overall adjustment of 883 days.

The above-identified application issued as U.S. Pat. No. 7,807,242 on October 5, 2010. The patent issued with a patent term adjustment of 913 days. The instant application for patent term adjustment was timely filed December 3, 2010. Patentees contest the reduction of 43 days in connection with the post-allowance submission filed August 24, 2010. Patentees further assert that the patent term adjustment is subject to an additional reduction of 30 days in connection with the information disclosure statement (IDS) filed July 22, 2010.

Patentees argue that the patent term adjustment is not subject to a reduction of 43 days in connection with the drawings filed August 24, 2010 because the drawings were submitted at the request of the examiner.

Patentees' arguments have been carefully considered, but are not found persuasive. Submission of drawings after a Notice of Allowance has been given is deemed a failure to engage in reasonable efforts to conclude prosecution within the meaning of 37 CFR 1.704(c)(10). 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).

Patentees further advise that the patent term adjustment is subject to a further reduction of 30 days in connection with IDS filed July 22, 2010.

Review of the records reveals that patentees are correct. The patent term adjustment is subject to further reduction of 30 days pursuant to 37 CFR 1.704(c)(8) .The reduction commenced June 22, 2010 and ended July 22, 2010.

In view thereof, the patent is entitled to an overall adjustment of 883 days (788 days under § 1.702(a) + 364 days under § 1.702(b) - 118 days overlapping days – 151 days of applicant delay under § 1.704).

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

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

The application is being forwarded to the Certificates of Corrections Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by 883 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 : 7,807,242

DATED : October 5, 2010 **DRAFT**

INVENTOR(S) : Soerensen, 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 913 days

Delete the phrase "by 913 days" and insert -- by 883 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

MAILED
AUG 11 2011
OFFICE OF PETITIONS

FISH & RICHARDSON P.C. (TC)
PO BOX 1022
MINNEAPOLIS MN 55440-1022

In re Application of	:	
McMurry et al.	:	DECISION
Application No. 11/472,842	:	ON APPLICATION FOR
Filed: June 22, 2006	:	PATENT TERM ADJUSTMENT
Atty Docket No. 25562-0005006	:	
/ MET-4	:	
Title: DIAGNOSTIC IMAGING	:	
CONTRAST AGENTS WITH EXTENDED	:	
BLOOD RETENTION	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)," filed July 27, 2011. Applicants request that one period of Applicant delay be corrected.

The request for reconsideration of the patent term adjustment under 37 C.F.R. § 1.705(b) is **GRANTED**.

On April 29, 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 eight hundred and ten (810) days. The present request for reconsideration, filed on July 27, 2011, was timely filed as it was submitted concurrently with the submission of the issue fee on July 27, 2011. See § 1.705(b).

Applicants have indicated that any patent issuing from this patent is subject to a terminal disclaimer.[1]

With this petition, Applicants argue that a single period of reduction is improper. A response to a non-final Office action was filed on February 14, 2011, and a terminal disclaimer was filed 59 days later on April 14, 2011. Therefore, the Office accorded a 59-day reduction as warranted by 37 C.F.R. § 1.704(c)(8). With this petition, Applicants argue that the terminal disclaimer was filed on February 14, 2011, not April

[1] Petition, page 2.

14, 2011. A review of Office records show Applicants' assertion to be accurate: the terminal disclaimer was filed on February 14, 2011, concurrently with the aforementioned response to a non-final Office action. As such, no reduction pursuant to 37 C.F.R. § 1.704(c)(8) is warranted. It is further noted that on April 14, 2011, the Office posted an internal document in the Image File Wrapper which indicates that the terminal disclaimer of February 14, 2011 is approved, and that the PTA Calculations incorrectly characterize this paper as the filing of a terminal disclaimer.

The 59 day reduction has been removed.

Applicant delay totals eighty-three (83) 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.

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

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

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : January 4, 2012

TO SPE OF : ART UNIT 1618

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/472842 Patent No.: 8017105

CofC mailroom date: 12-30-12

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.

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

Comments: _____

MICHAEL G. HARTLEY
SUPERVISORY PATENT EXAMINER

Michael Hartley — **SPE**

1618 — **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5/10/11

TO SPE OF : ART UNIT 1728

SUBJECT : Request for Certificate of Correction for Appl. No.: 11472913 Patent No.: 7838759

CofC mailroom date: 05/03/11

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 571-270-9990

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

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

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

Comments: _____

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

SPE /Jennifer Michener/ Art Unit 1728

UNITED STATES PATENT AND TRADEMARK OFFICE

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

November 1, 2011

KENNAMETAL INC.
Intellectual Property Department
P.O. BOX 231
1600 TECHNOLOGY WAY
LATROBE PA 15650

Re Application of
MCNERNY, CHARLES G., ET Al
Application: **11/472921**
Filed: **06/22/2006**
Attorney Docket No: **K-1978**

: DECISION ON PETITION
: ACCEPTANCE OF COLOR
: DRAWINGS

This is a decision on the Petition to Accept Color Drawings under 37 C.F.R 1.84 (a) (2), received in the United States Patent and Trademark Office (USPTO) June 22,2006.

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

JAMES W. MILLER, ATTORNEY
527 MARQUETTE AVENUE
SUITE 1960, RAND TOWER
MINNEAPOLIS MN 55402

MAILED

OCT 11 2011

OFFICE OF PETITIONS

In re Application of
Zien et al.
Application No. 11/472,931
Patent No.: 7,578,411
Filed: June 22, 2006
Issued: August 25, 2009
Attorney Docket No.:
133.1.5/USA
Title: BUCKET BAIL GRIP

DECISION ON PETITION
PURSUANT TO
37 C.F.R. § 1.28(c)

This is a notice regarding your request for acceptance of a fee deficiency submission pursuant to 37 C.F.R. § 1.28, received on September 21, 2011. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 C.F.R. § 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).

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

Petitioner has identified the particular type of fees that were erroneously paid as a small entity, when the small entity fees were actually paid, the small entity fees that were actually paid, the deficiency owed amounts, and the total deficiency payment owed.

The deficiency payment in the amount of $1605.00 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 patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[1]

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

---

1 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

UNITED STATES PATENT AND TRADEMARK OFFICE

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

QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO CA 92121

In re Application of		
QI, YINGYONG	:	
Application No.: 11/472,965	:	DECISION ON
Filing or 371(c) Date: June 21, 2006	:	PETITION
Attorney Docket Number: 030255D1	:	

This is a decision on the Petition to Withdraw Holding of Abandonment received in the United States Patent and Trademark Office (USPTO) on August 11, 2010.

This petition is **MOOT**.

The application was never abandoned. The Issue Fee and Publication fee as required by the Notice of Allowance, mailed May 10, 2010 which set forth a three (3) month statutory period of reply was timely.

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 756-1567.

Diane Terry
Quality Control Specialist
Office of Data Management

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/472,965	06/21/2006	Yingyong Qi	030255D1	6716

23696 7590 08/26/2010
QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO, CA 92121

EXAMINER
BRIER, JEFFERY A

ART UNIT	PAPER NUMBER
2628	

NOTIFICATION DATE	DELIVERY MODE
08/26/2010	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):

us-docketing@qualcomm.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

QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO CA 92121

In re Application of		
QI, YINGYONG	:	
Application No.: 11/472,965	:	DECISION ON
Filing or 371(c) Date: June 21, 2006	:	PETITION
Attorney Docket Number: 030255D1	:	

This is a decision on the Petition to Withdraw Holding of Abandonment received in the United States Patent and Trademark Office (USPTO) on August 11, 2010.

This petition is **MOOT**.

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Telephone inquiries concerning this matter should be directed to the undersigned at (703) 756-1567.

Diane Terry
Quality Control Specialist
Office of Data Management

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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MAILED
OCT 13 2010
OFFICE OF PETITIONS

QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO CA 92121

In re Application of	:	
Yingyong Qi et al.	:	
Application No. 11/472,965	:	ON PETITION
Filed: June 21, 2006	:	
Attorney Docket No. 030255D1	:	

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

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

A review of the record shows that the reply in the form of the issue and publication fee payments was timely paid on August 10, 2010. Since this application is not considered abandoned, the petition is unnecessary.

The application is now a patented case assigned Patent No. 7,800,632, issued September 21, 2010.

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

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

Doc Code: PET.RELIEF
Document Description: Certification and Request for Disaster Relief

PTO/SB/425 (03-11)

CERTIFICATION AND REQUEST FOR RELIEF DUE TO EVENTS OF MARCH 11, 2011, IN JAPAN (Page 1 of 2)

Nonprovisional Application Number or Control Number (if applicable): 11/473,062	Patent Number (if applicable):
First Named Inventor: H. KOIZUMI et al.	Title of Invention: BURNER, GAS TURBINE COMBUSTOR, BURNER COOLING METHOD, AND BURNER MODIFYING METHOD

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

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

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

   b. A reply or response to an Office action (final, non-final, or other), a notice of allowance, or other Office notice (hereinafter collectively referred to as “Office communication”) is outstanding 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 /Daniel J. Stanger/	Date May 12, 2011
Name (Print/Typed) Daniel J. Stanger	Practitioner Registration Number 32,846

***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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BRUNDIDGE & STANGER, P.C.
2318 MILL ROAD, SUITE 1020
ALEXANDRIA VA 22314

MAILED

JUN 01 2011

OFFICE OF PETITIONS

In re Application of	:	
Koizumi et al.	:	
Application No. 11/473,062	:	DECISION ON PETITION
Filed: June 23, 2006	:	
Attorney Docket No. KAS-5389	:	

This is a decision on the request filed May 12, 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 December 30, 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 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 3741 for re-mailing the Office action of December 30, 2010. The period for reply will run from the mailing date of the Office action.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

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MAILED
JUL 11 2011
OFFICE OF PETITIONS

KILPATRICK TOWNSEND & STOCKTON LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-

In re Application of	:	
Daisuke Iizuka	:	
Application No. 11/473,091	:	DECISION ON PETITION
Filed: June 21, 2006	:	
Attorney Docket No. 16869S-186700US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 10, 2011, 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 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 December 2, 2010.

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

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

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 2193 for appropriate action by the Examiner in the normal course of business on the reply received May 10, 2011.

April M. Wise
Petitions Examiner
Office of Petitions

cc: DAVID A. HALL
12730 HIGH BLUFF DRIVE
SUITE 400
SAN DIEGO, CA 92130

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Erickson Law Group, PC
1749 S. NAPERVILLE ROAD
SUITE 202
WHEATON IL 60189

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AUG 27 2010

OFFICE OF PETITIONS

In re Application of
Roman J. Mudry et al.
Application No. 11/473,094
Filed: June 22, 2006
Attorney Docket No. 6380P0012US

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 25, 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 4, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed March 4, 2010. Accordingly, the date of abandonment of this application is June 5, 2010. A Notice of Abandonment was mailed on June 22, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $755 and the publication fee of $300, (2) the petition fee of $810, and (3) a proper statement of unintentional delay. 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
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MCKENNA LONG & ALDRIDGE LLP
1900 K STREET NW
WASHINGTON DC 20006

MAILED
SEP 06 2011
OFFICE OF PETITIONS

In re	:	
Patent No. 7,507,593	:	DECISION ON PETITION
Issued: March 24, 2009	:	
Application No. 11/473,141	:	
Filed: June 23, 2006	:	

This is a decision on the petition under 37 CFR 1.182, filed May 12, 2011, for a duplicate Letters Patent.

The petition under 37 CFR 1.182 is **GRANTED**.

The Publishing Division is directed to issue a duplicate Letters Patent.

Any questions concerning this decision may be directed to the undersigned at (571)272-3207. Any questions concerning issuance of the duplicate Letters Patent should be directed to Ollie Person at (703)756-1555.

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

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

Cliff Congo
Petitions Attorney
Office of Petitions

cc: Ollie Person, P/OPPD (FAX 571-270-9764)
Kimberly Terrell, P/OPPD (FAX 571-270-9958)

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/473,196	06/21/2006	Michelle L. Monje	STAN-303CIP (S03-066)	5786

7590 07/01/2011
Stanford University Office of Technology Licensing
Bozicevic, Field & Francis LLP
1900 University Avenue
Suite 200
East Palo Alto, CA 94303

EXAMINER
DUTT, ADITI

ART UNIT	PAPER NUMBER
1649	

MAIL DATE	DELIVERY MODE
07/01/2011	PAPER

ACKNOWLEDGEMENT OF REQUEST

Notice of Allowance/Allowability Mailed

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

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

FORM PTOM327-5 (Rev. 02/08)

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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June 30, 2011

Stanford University Office of Technology Licensing
Bozicevic, Field & Francis LLP
1900 University Avenue
Suite 200
East Palo Alto CA 94303

In re Application of	:	
Monje, Michelle L. et, al	:	**DECISION ON PETITION**
Application No. 11/473,196	:	
Filed: 06/21/2006	:	***ACCEPTANCE OF COLOR***
Attorney Docket No. STAN-303CIP	:	***DRAWINGS***

This is a decision on the Petition to Accept Color Drawings under 37 C.F.R 1.84 (a) (2), received in the United States Patent and Trademark Office (USPTO) June 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 inquires relating to this decision may be directed to the undersigned in the Office of Data Management at 571-272-4200.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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TOLER LAW GROUP
8500 BLUFFSTONE COVE
SUITE A201
AUSTIN, TX 78759

MAILED

AUG 02 2010

OFFICE OF PETITIONS

In re Application of	:	
Graves et al.	:	DECISION ON PETITION
Application No. 11/473,202	:	TO WITHDRAW
Filed: June 22, 2006	:	FROM RECORD
Attorney Docket: GG-20005	:	

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 16, 2010.

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

A review of the file record indicates that Toler Law Group were revoked as power of attorney by the applicants of the patent application on June 24, 2010. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Alicia Kelley
Petitions Examiner
Office of Petitions

cc: MICHAEL B. MCMURRY
1210 ASTOR ST.
CHICAGO, IL 60610

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OCT 27 2010

OFFICE OF PETITIONS

ROSENBERG,KLEIN & LEE
3458 ELLICOTT CENTER DRIVE-SUITE 101
ELLICOTT CITY MD 21043

In re Application of	:	
Hua-Hsin Tsai	:	
Application No. 11/473,234	:	DECISION ON PETITION
Filed: June 23, 2006	:	
Attorney Docket No. MR957-1847	:	

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.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an RCE and previously filed amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office action mailed December 16, 2009, is accepted as having been unintentionally delayed.

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

This application is being referred to Technology Center AU 1795 for appropriate action by the Examiner in the normal course of business on the reply received August 5, 2010.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

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WOODLING, KROST AND RUST
9213 CHILLICOTHE ROAD
KIRTLAND OH 44094

MAILED
MAY 03 2011
OFFICE OF PETITIONS

In re Patent No. 7,892,504 :
Issue Date: February 22, 2011 :
Application No. 11/473,294 :
Filed: June 22, 2006 :
Attorney Docket No. 8315 :

ON PETITION

This is a decision on the petition filed March 4, 2011, which is being treated as a request under 37 CFR 3.81(b)[1] to add the name of the second 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
Petitions Attorney
Office of Petitions

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

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JUN 10 2011
OFFICE OF PETITIONS

Foley & Lardner LLP
P.O. BOX 80278
SAN DIEGO CA 92138-0278

In re Patent No. 7,863,288	:
Ibrahim et al.	: DECISION ON REQUEST FOR
Issue Date: January 4, 2011	: RECONSIDERATION OF
Application No. 11/473,347	: PATENT TERM ADJUSTMENT
Filed: June 21, 2006	: AND NOTICE OF INTENT
Attorney Docket No. 039363-2803	: TO ISSUE CERTIFICATE OF
Title: COMPOUNDS AND METHODS	: CORRECTION
FOR KINASE MODULATION, AND	:
INDICATIONS THEREFOR	:

This is a decision on the petition filed on March 4, 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 ninety-five (1,095) days.

The request for review of the patent term adjustment is **GRANTED**

The period of adjustment to which the patent is entitled under 37 CFR 1.702(a) is 678(640 + 38) days.

The period of adjustment to which the patent is entitled under 37 CFR 1.702(b) is 562 days.

The period of adjustment under 37 CFR 1.702(a) and the period of adjustment under 37 CFR 1.702(b) overlaps for a total of 38 days (November 28, 2010 to January 4, 2011).

Patentees dispute the 44 day reduction for the submission of the miscellaneous incoming letter. Patentees contend MPEP 2732(c)(10) provides the submission of a change of status after the Notice of Allowance is not considered a failure to engage.

Patentees' argument has been considered and determined to be persuasive. As such the 44 day reduction will be removed.

Thus the total reduction for patentees' delay total 107 (85 + 22) days.

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

The application is being forwarded to the Certificate of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand ninety-five (1,095)** days.

The $200.00 petition fee set forth in 37 CFR 1.18(e) has been assessed. No additional fees are required. The fee set forth in 37 CFR 1.18(e) is a requirement and will not be refunded.

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

Charlema Grant

Charlema Grant
Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,863,288 B2

DATED : January 4, 2011 **DRAFT**

INVENTOR(S) : Ibrahim 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 1051 days

Delete the phrase "by 1051 days" and insert – by 1095 days--

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ALCON
IP LEGAL, TB4-8
6201 SOUTH FREEWAY
FORT WORTH TX 76134

MAILED
MAY 06 2011
OFFICE OF PETITIONS

In re Application of	:	
David M. Domash	:	
Application No. 11/473,428	:	DECISION GRANTING PETITION
Filed: June 23, 2006	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 2994	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed May 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 April 11, 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 3767 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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Patent No. : 7978095 B2
Application No.: 11/473451
Inventor(s) : David C. McClure et al.
Issued : July 12, 2011
Attorney Docket No.: 05-C-098

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 or 1.323.

The patent is printed in accordance with the specification submitted on 08/10/2011.
The request about the subtitle – Description of Related Art, requires a fee for the issuance of a certificate of correction.

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

A certificate of correction will be issued for the remaining error noted in the request.

Tasneem Siddiqui
For Mary Diggs (Supervisor)
Decisions & Certificates of Correction Branch
(703) 756-1593 or (703) 756-1814
Date: 01/04/2012

Address: Andre M. Szuwalski
GARDERE WYNNE SEWELL LLP
1601 Elm Street, Suite 3000
Dallas, Texas 75201-4761

ts

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SLATER & MATSIL, L.L.P.
17950 PRESTON ROAD
SUITE 1000
DALLAS, TX 75252

MAILED

MAR 24 2011

OFFICE OF PETITIONS

In re Application of	:	
Dittrich et al.	:	DECISION ON PETITION
Application No. 11/473,531	:	TO WITHDRAW
Filed: June 23, 2006	:	FROM RECORD
Attorney Docket No. P33337US	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed February 14, 2011, which is being treated as a request to withdraw from employment in a proceeding before the Office under 37 C.F.R. § 10.40.

The request is **DISMISSED**.

A review of the file record indicates that Slater & Matsil, L.L.P. does not have power of attorney in this patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

The request to change the correspondence address of record is not accepted in view of Slater & Matsil L.L.P. not having power of attorney. See MPEP §§ 601.03 and 405.

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

Currently, the above-identified application issued as Patent No. 7,903,452 on March 8, 2011.

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

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Viering, Jentschura & Partner - QM
3770 Highland Ave.
Suite 203
Manhattan Beach CA 90266

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Merck
Patent - Docket - RY 60-30
126 East Lincoln Avenue
Rahway NJ 07065-0907

MAILED
NOV 30 2011
OFFICE OF PETITIONS

In re Patent No. 8,048,429	:	
Sterner et al.	:	DECISION ON REQUEST FOR
Application No. 11/473600	:	CORRECTED PATENT TERM ADJUSTMENT
Issue Date: 11/01/2011	:	and
Filing or 371(c) Date: 06/23/2006	:	NOTICE OF INTENT TO ISSUE
Attorney Docket No.	:	CERTIFICATE OF CORRECTION
I-2005.004 US	:	

This is a decision on the petition filed on October 27, 2011, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one hundred thirty-one (131) days.

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

On November 1, 2011, the above-identified application matured into U.S. Patent No. 8,048,429. The patent issued with a PTA of zero (0) days. The present request for reconsideration of patent term adjustment was timely filed within two months of the issue date of the patent.

Patentee contests the reduction of 89 days in connection with the filing of a Supplemental oath/declaration and Application Data Sheet ("ADS") after the mailing of a Notice of Allowance and in reply to a Notice to File Corrected Application Papers. Patentee also asserts that the Office erred in calculating the "B" delay period of 72 days.

Patentees' arguments have been carefully considered. A review of the record confirms that a Notice of Allowance and issue Fee Due was mailed on June 21, 2011. The Office mailed a Notice to File Corrected Application Papers on August 5, 2011, requiring a Supplemental oath/declaration or ADS. Patentees' filed a reply to the Notice including a copy of an ADS filed with the application papers on June 23, 2006. A review of the ADS filed with the application papers on June 23, 2006 confirms that it included the city and either state or foreign country of residence of each inventor. In view thereof, the reduction of 89 days pursuant to 37 CFR 1.704(c)(10) is in error and has been removed.

As to the period of time excluded from B delay for appellate review, Patentee's argument has also been considered, but not found persuasive. The period consumed by appellate review, whether successful or not, is excluded from the calculation of B delay. See, 35 U.S.C. 154(b)(1)(B)(ii). An appeal to the Board of Patent Appeals and Interferences commences with the filing of a notice of appeal. See 35 U.S.C. 134(a). Generally, an appeal to the Board of Patent Appeals and Interferences ends with either 1) a Board decision, 2) the examiner reopening prosecution and issuing another Office action, or 3) the applicant filing a request to withdraw the appeal and reopen prosecution (e.g. the filing of a request for continued examination). In this instance the period consumed by appellate review is 47 days, beginning on September 4, 2009, the date of filing of the notice of appeal, and ending on October 20, 2009, the date before the RCE was filed.

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, <u>from the date of the final rule</u> to file a request for reconsideration. No extensions of time will be granted under § 1.136. (Emphasis added).

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, it is concluded that the patent should have issued with a revised Patent Term Adjustment of eighty-four (84) days (352 days of Office delay reduced by 268 days of applicant delay).

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

Regarding Applicant's request for a refund, Applicant is advised that the fee is a prerequisite prior to treatment on the merits of any application for patent term adjustment. 35 U.S.C. 41(d) authorizes the Office to establish a fee to recover the estimated average cost of treating applications for patent term adjustment (as well as a fee for treating a request for reinstatement of patent term adjustment), and the cost of treating an application for patent term adjustment is about the same regardless of whether the Office's initial determination of patent term adjustment indicated in the notice of allowance is correct. Even when the application for patent term adjustment is correct, refunding the fee would require the Office to raise the fee set forth in § 1.18(e) (to enable the Office to recover the same aggregate amount); and (2) add further complication to a review process that must take place in a limited period of time. The request for

a refund is, therefore, dismissed. See, 65 Fed. Reg. 56,366, 53,374 (September 18, 2000), 1239 Off. Gaz. Pat. Office 14 (October 3, 2000).

The application file 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 eighty-four (84) 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,,048,429 B2

DATED : **November 1, 2011**

INVENTOR(S) : Sterner et al.

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

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 0 days.

Delete the phrase "by 0 days" and insert – by 84 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Date : February 11, 2011

Patent No. :7811076
Ser. No. :11473708
Inventor(s) : Susanne Wieland, et al
Issued :October 12, 2010
Title :AIKALINE PROTEASE AND WASHING AND CLEANING PRODUCTS
:CONTAINING SAID NOVEL ALKALINE PROTEASE

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

Donna T. Ward, Ph.D., Esq.
DT Ward PC
292 Main Street, Suite 2, Groton, MA 01950

/arg

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED
APR 28 2011
OFFICE OF PETITIONS

DT Ward, PC
292 Main Street
Suite 2
Groton MA 01450

In re Patent No. 7,811,076 :
Issue Date: October 12, 2010 :
Application No. 11/473,708 : DECISION ON PETITION
Filed: June 22, 2006 :
Attorney Docket No. 2013.1001US :

This is a decision on the Renewed Request For Certificate Of Correction, filed February 24, 2011, which is being treated as 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:

"Henkel AG & Co. KGaA"

to:

--BRAIN AG--

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

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

The requisite $100.00 fee (Fee Code 1811), as set forth under 37 CFR §1.20(a), and the requisite $130.00 processing fee (Fee Code 1464), as set forth under 37 CFR §1.17(i), have been submitted. Further, Office assignment records are consistent with the requested correction. Accordingly, since the Petition complies with the provisions of 37 CFR §3.81(b), it is appropriate for the Office to issue a Certificate of Correction in accordance with the content of the Form (PTO/SB/44) submitted with Petition.

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

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

This matter is being referred to the Certificates of Correction Branch for processing of a Certificate of Correction in U.S. Patent No. 7,811,076.

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
www.uspto.gov

TYCO HEALTHCARE GROUP LP
D/B/A COVIDIEN
555 LONG WHARF DRIVE
MAIL STOP 8-N1, LEGAL DEPARTMENT
NEW HAVEN CT 06511

MAILED
MAY 09 2011
OFFICE OF PETITIONS

In re Application of	:	
Salter	:	
Application No. 11/473,712	:	DECISION
Filed/Deposited: 23 June, 2006	:	
Attorney Docket No. H-US-00005 (203-4296)	:	

\This is a decision on the petition filed on 16 February, 2011, pursuant to 37 C.F.R. §1.137(b) for revival of an application abandoned due to unintentional delay.

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

As to the Allegations
of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement and/or showing of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee

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 non-final Office action mailed on 15 April, 2010, with reply due absent extension of time on or before 15 July, 2010.

The application went abandoned by operation of law after midnight 15 July, 2010.

The Office mailed the Notice of Abandonment on 24 January, 2011.

On 16 February, 2011, Petitioner filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.137(b), with fee, a reply in the form of an amendment, 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, by definition, are not intentional.[3]))

As to Allegations of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee.

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[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

[2] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[3] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

It appears that the requirements under the rule have been satisfied.

CONCLUSION

Accordingly, the petition pursuant to 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to the Technology Center/AU 3779 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[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 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

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

JAN C BIRO
612 S FLOWER ST., #1220
LOS ANGELES CA 90017

MAILED

JUL 20 2011

OFFICE OF PETITIONS

In re Application of
Jan Biro
Application No. 11/473,745
Filed: June 23, 2006
Attorney Docket No. 4236-103

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.102(c)(1), filed July 5, 2011 to make the above-identified application special based on applicant's health as set forth in M.P.E.P. § 708.02, Section III.

The petition is **DISMISSED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section III: Applicant's Health, must be accompanied by evidence, such as a doctor's certificate or other medical certificate, showing that the state of health of the applicant is such that he or she might not be available to assist in the prosecution of the application if it were to run its normal course. No fee is required.

The instant petition does not include a recently signed doctor's certificate or other medical certificate, showing that the **state of health of the applicant is such that he or she might not be available to assist in the prosecution of the application if it were to run its normal course.**

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).

Further, petitioner has failed to sign the petition.

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

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

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

By FAX: (571) 273-8300

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7751. All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 1631 for action in its regular turn.

/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

JAN C BIRO
612 S FLOWER ST., #1220
LOS ANGELES CA 90017

MAILED

AUG 17 2011

OFFICE OF PETITIONS

In re Application of Jan Biro Application No. 11/473,745 Filed: June 23, 2006 Attorney Docket No. 4236-103	: : : : :	DECISION ON PETITION TO MAKE SPECIAL UNDER 37 CFR 1.102(c)(1)

This is a decision on the renewed petition under 37 CFR 1.102(c)(1), filed August 8, 2011, to make the above-identified application special based on applicant's health as set forth in M.P.E.P. § 708.02, Section III.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section III: Applicant's Health, must be accompanied by evidence showing such as a doctor's certificate or other medical certificate that the state of health of the applicant is such that he or she might not be available to assist in the prosecution of the application if it were to run its normal course. No fee is required

The instant petition includes a certificate by attending physician, Dr. Jonas Swedenberg. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7751. All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

This matter is being referred to the Technology Center Art Unit 1631 for action on the merits commensurate with this decision.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/473,745	06/23/2006	Jan Biro	4236-103	9411

7590 09/19/2011

Jan C Biro
612 S Flower St., #1220
Los Angeles, CA 90017

EXAMINER
BORIN, MICHAEL L

ART UNIT	PAPER NUMBER
1631	

MAIL DATE	DELIVERY MODE
09/19/2011	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

SEP 1 9 2011

Jan C Biro
612 S Flower St., #1220
Los Angeles CA 90017

In re Application of:	:
Jan Biro	: PETITION DECISION
Serial No.: 11/473,745	:
Filed: June 23, 2006	:
Attorney Docket No.: **4236-103**	

This is in response to the petition under 37 CFR § 1.181, filed July 5, 2011, requesting that the final Office action of April 5, 2011 be withdrawn.

Applicant's arguments have been accorded careful consideration but they are not persuasive for the following reasons. The petition was untimely and therefore the merits of such won't be considered. Applicant should note that 37 CFR 1.181(f) indicates that any petition not filed within two months of the mailing date of the action from which relief is requested may be dismissed as untimely, that action being the final rejection of April 5, 2011. If the applicant wants consideration after the two months they should file a petition, and corresponding petition fee for such, under 37 CFR 1.183 and ask for a suspension of the Rule 181 and ask that consideration be made later than the 2 months.

Accordingly, the petition filed under 37 CFR 1. 181 is **DISMISSED** as untimely.

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

for

Jacqueline Stone
Director, 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

NAVTEQ NORTH AMERICA, LLC
425 West RANDOLPH STREET
SUITE 1200, PATENT DEPT
CHICAGO IL 60606 AZA

MAILED
MAY 18 2011
OFFICE OF PETITIONS

In re Application of :
M. Salahuddin KHAN et al. :
Application No. 11/473,800 : ON PETITION
Filed: June 23, 2006 :
Attorney Docket No. N0233US :

This is a decision on the petition under 37 CFR 1.137(b), filed April 18, 2011, which, for the reasons stated below, is being treated as a request for a four month extension of time.

The request for a four month extension of time is GRANTED.

The record shows that a Notice of Noncompliant Amendment was mailed on November 23, 2010, which set a one month shortened statutory period for reply. Accordingly, a reply was due on or before December 23, 2010, or on or before May 23, 2011 with the submission of an extension of time fee pursuant to the provisions of 37 CFR 1.136(a). Since petitioner may obtain an extension of time up to an including five months, this case is not in fact abandoned. Accordingly, the filing of a petition to revive is inappropriate until the maximum extendable period for reply has expired.

In view of the above, the $1620 petition fee submitted will be applied towards the purchase of a four month extension of time of $1730. The additional $110 due will be charged to Deposit Account No. 50-0728.

Telephone inquiries concerning this decision should be directed to David A. Bucci at (571) 272-7099.

This application is being referred to Technology Center AU 3629 for further action as the nature of the case may require.

David A. Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

July 15, 2011

Agilent Technologies, Inc. in care of:
CPA Global
P. O. Box 52050
Minneapolis MN 55402

In re Application of	:	
Michael T. Barrett et al.	:	**DECISION ON PETITION**
Application No. 11473869	:	
Filed: 6/23/2006	:	***ACCEPTANCE OF COLOR***
Attorney Docket No. 10060010-1	:	***DRAWINGS***

This is a decision on the Petition to Accept Color Drawings under 37 C.F.R 1.84 (a) (2), received in the United States Patent and Trademark Office (USPTO) June 23, 2006.

The petition is **GRANTED**.

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

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

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

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

/Don Fairchild/
Office of Data Management
Publications Branch

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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.
11/473,869	06/23/2006	Michael T. Barrett	10060010-1	9225

7590 07/15/2011
Agilent Technologies, Inc. in care of:
CPA Global
P. O. Box 52050
Minneapolis, MN 55402

EXAMINER
ZHOU, SHUBO

ART UNIT	PAPER NUMBER
1631	

NOTIFICATION DATE	DELIVERY MODE
07/15/2011	ELECTRONIC

ACKNOWLEDGEMENT OF REQUEST

Notice of Allowance/Allowability Mailed

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

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

FORM PTOM327-5 (Rev. 02/08)

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Rutan & Tucker, LLP.
611 ANTON BLVD
SUITE 1400
COSTA MESA CA 92626

MAILED
MAR 26 2012
OFFICE OF PETITIONS

In re Application of Eric Davis Application No. 11/473,958 Filed: June 22, 2006 Attorney Docket No. 021404.0014US1	: : : : :	DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney of record under 37 CFR § 1.36, filed February 10, 2012.

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).

Also, certification box numbers 1 and 2 was left unchecked on the PTO/SB/83 form.

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

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-2991..

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

UNITED STATES 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 J. GLUCK
C/O THE ECLIPSE GROUP
SUITE 150
1920 MAIN STREET
IRVINE CA 92614

MAILED
MAY 09 2011
OFFICE OF PETITIONS

In re Application of	:	
MAERTZ, Richard James	:	
Application No. 11/473,991	:	DECISION ON PETITION
Filed: June 22, 2006	:	TO WITHDRAW
Attorney Docket No. **37949.10100**	:	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 15, 2011.

The request is **NOT APPROVED**.

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

Accordingly, the request to withdraw from record cannot be approved because the change of address is not that of: (1) the first named inventor; or (2) an assignee of the entire interest under C.F.R 3.71, who has properly intervened.

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

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

Michelle R. Eason
Paralegal Specialist
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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.
11/474,070	06/23/2006	Kang Li	7811/3	6702

7590 06/23/2011

Charles C Valauskas
Valauskas & Pine LLC
150 South Wacker Drive
Suite 620
Chicago, IL 60606

EXAMINER
BAYAT, ALI

ART UNIT	PAPER NUMBER
2624	

MAIL DATE	DELIVERY MODE
06/23/2011	PAPER

ACKNOWLEDGEMENT OF REQUEST

Notice of Allowance/Allowability Mailed

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

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

FORM PTOM327-5 (Rev. 02/08)

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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June 23, 2011

Charles C Valauskas
Valauskas & Pine LLC
150 South Wacker Drive
Suite 620
Chicago IL 60606

In re Application of	:	
Li, Kang et, al	:	**DECISION ON PETITION**
Application No. 11/474,070	:	
Filed: 06/23/2006	:	***ACCEPTANCE OF COLOR***
Attorney Docket No. 7811/3	:	***DRAWINGS***

This is a decision on the Petition to Accept Color Drawings under 37 C.F.R 1.84 (a) (2), received in the United States Patent and Trademark Office (USPTO) October 24, 2008.

The petition is **GRANTED**.

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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LEE & HAYES, PLLC
601 W RIVERSIDE
SUITE 1400
SPOKANE, WA 99201

MAILED
MAR 07 2011
OFFICE OF PETITIONS

In re Application of	:	
JUNG, Edward K.Y. et al.	:	
Application No. 11/474,074	:	DECISION ON PETITION
Filed: June 23, 2006	:	TO WITHDRAW
Attorney Docket No. **QQ1-0059US**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 26, 2011.

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

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

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

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

/Tredelle D. Jackson/
Petitions Examiner
Office of Petitions

cc: **MARGARET ANDERSON**
106 E. 6TH STREET, SUITE 900
AUSTIN TX 78701

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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Date: 03/21/12

Patent No. : 7544052 B2
Ser. No. : 11/474,212
Inventor(s) : **Wockel , et al.**
Issued : **June 9, 2009**
Title : **OIL PUMP FOR AN INTERNAL COMBUSTION ENGINE**
Docket No. : **POR-BD40**

Re: Request for Certificate of Correction

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

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

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

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

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

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

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

By mail: Mail Stop PETITIONS

Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

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

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

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

Lamonte M. Newsome

Lamonte M. Newsome
For Mary Diggs, Supervisor
Decisions & Certificates
Of Correction Branch
(571) 272-3421 or (703)756-1580

LERNER GREENBERG STEMER LLP
P O BOX 2480
HOLLYWOOD FL 33022-2480

LMN

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Alexandria, VA 22313-1450
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FISH & RICHARDSON P.C. (BO)
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

In re Patent of Davis et al.	:	
Patent No. 7,838,294	:	
Issue Date: November 23, 2010	:	Decision on Petition
Application No. 11/474,513	:	
Filing Date: June 23, 2006	:	
Attorney Docket No. 10363-0004004	:	

This is a decision on the petition filed January 21, 2011, which is being treated as a petition under 37 C.F.R. § 1.705(d) requesting the patent term adjustment indicated on the patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by five hundred seventy-two (572) days.

The petition to correct the patent term adjustment indicated on the patent to indicate the term of the patent is extended or adjusted by five hundred seventy-two (572) days is **dismissed**.

Patentees dispute the time excluded from delay under 37 C.F.R. § 1.703(b) ("B delay") for appellate review. Patentees' arguments have 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).

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 should be interpreted to be 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 C.F.R. § 1.18(e). No additional fees are required.

Telephone inquiries regarding the instant decision may be directed to the undersigned at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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LEE & HAYES, PLLC
601 W RIVERSIDE
SUITE 1400
SPOKANE, WA 99201

MAILED

FEB 28 2011

OFFICE OF PETITIONS

In re Application of	:	
Jung et al.	:	DECISION ON PETITION
Application No. 11/474,523	:	TO WITHDRAW
Filed: June 22, 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.*

Customer Number 55922 was indicated as the future correspondence address, however as it is not that of the first named inventor or the assignee of record, the request to withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) cannot be approved at this time. 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 Non final Office action mailed January 5, 2011, which requires 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED
MAR 28 2011
OFFICE OF PETITIONS

In re Application of	:	
Mitsuru Takehara et al	:	
Application No. 11/474,601	:	DECISION GRANTING PETITION
Filed: June 26, 2006	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. S1459.70232US00	:	

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 28, 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 2163 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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PETER M. ULLMAN LLC
PO BOX 6764
LAWRENCEVILLE, NJ 08648-0764

In re Application of

Brian K. FURPHY
Application No. 11/474,694
Filed: June 26, 2006
Attorney Docket No. **HOST-0002**

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 July 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 request was signed by Peter Ullman, the sole attorney of record. Peter Ullman has been withdrawn as attorney or agent of record. 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.

There is an outstanding non-final Office action mailed June 23, 2010 that requires a reply from the applicant.

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

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

cc: **FURTURELABS, INC. D/B/A HOSTLABS**
C/O BRIAN FURPHY
4440 KANSAS STREET
SAN DIEGO, CALIFORNIA 92116

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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DEC 15 2010

OFFICE OF PETITIONS

In re Application of	:	
Tuschl et al.	:	
Application No. 11/474,738	:	DECISION ON PETITION
Filed: June 26, 2006		TO WITHDRAW FROM RECORD
Attorney Docket No. W0571.70010US05	:	
	:	

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 28, 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 Helen C. Lockhart, on behalf of all attorneys of record who are associated with Customer Number 23628.

All attorneys/agents associated with the Customer Number 23628 have been withdrawn. Currently, Robert B. Murray Reg. No. 22,980, Nancy Linck Reg. No. 31,920, and Monica Kitts Reg. 36,105 are the attorneys of record in the above-identified application.

All future correspondence will be directed to the assignee at the address indicated below.

In order to assure that all interests are properly and effectively represented, further correspondence to the United States Patent and Trademark Office (USPTO) in this

application - or resultant patent-- must be signed by both: (1) a registered practitioner representing Max- Planck; and (2) a registered practitioner representing the interests of the other co-assignees. Any counsel when signing subsequent papers must indicate whom he or she represents.

Since there is no agreement between the parties as to the correspondence address, the correspondence address for this application will be with the successors of Wolf Greenfield & Sacks, P.C, which is White Institute for Biomedical Research. Also, the successors of Wolf Greenfield & Sacks, P.C will be responsible for coordinating replies or submissions to the USPTO, unless the parties otherwise agree after the mailing date of this decision. In the event that the parties agree on a different correspondence address, a change of correspondence address, signed as discussed above, should be filed.

All parties are reminded that dual correspondence is not permitted, and will not be undertaken by the USPTO.

Currently, a Notice of Appeal was filed March 3, 2010 in the above-identified application.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: White Institute for Biomedical Research
9 Cambridge Center, Room 111
Cambridge, MA 02142

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

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OFFICE OF PETITIONS

In re Patent of Rosiello	:	
Patent No. 7,824,558	:	
Issue Date: November 2, 2010	:	DECISION ON REQUEST
Application No. 11/474,739	:	FOR RECONSIDERATION OF
Filed: June 26, 2006	:	PATENT TERM ADJUSTMENT
Docket No. 350930-0247	:	
(ZQI-125 CON)	:	

This is a decision on the petition, filed December 8, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by eleven (11) days.

The petition under 37 CFR 1.705(d) is **dismissed.**

The sole issue pertains to the three years to issue guarantee of 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b) (hereinafter, "B delay").

The Office does not concur with patentee's assertion the period of B delay is 143 days. The maximum period of B delay in this case is 142 days. Unless a Request for Continued Examination ("RCE") is filed, the period of B Delay ends of the date the patent issues. In this case, a RCE was filed on November 16, 2009. Per 35 U.S.C. § 154(b)(1)(B)(i), B Delay does not include "any time consumed by continued examination of the application requested by the applicant under section 132(b)." The maximum period of B Delay in this case is 142 days, which is the number of days beginning on June 27, 2009, the day after the date three years after the application's filing date, and ending on November 15, 2009, the day before the date the RCE was filed.

As stated in 35 U.S.C. 154(b)(1)(B)(ii), B delay does not include "any time consumed by appellate review by the Board of

Patent Appeals and Interferences." A Notice of Appeal was filed on June 15, 2009 and applicant withdrew the appeal by filing an RCE on November 16, 2009. The period of B delay does not include the 142 day period beginning on June 27, 2009, the first day overlapping with the maximum period of B delay that occurred after the date the Notice of Appeal was filed, and ending on November 15, 2009, the day before the date applicant withdrew the appeal by filing a RCE. Excluding the 142 days consumed by appellate review results in a period of B delay of 0 days (142 - 142).

In light of the above, the patent term adjustment remains zero days, as a negative balance case (263 days of A delay and 0 days of B delay, reduced by 395 days of applicant delay).

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). This fee is required for consideration of a petition under 37 CFR 1.705(d) and will not be refunded.

The patent will be referred to Certificates of Correction Branch for consideration of the REQUEST FOR CERTIFICATE OF CORRECTION FOR PTO MISTAKE PURSUANT TO 37 C.F.R. § 1.322(a), filed December 8, 2010.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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JUL 19 2011
OFFICE OF PETITIONS

BOSE MCKINNEY & EVANS LLP
111 MONUMENT CIRCLE
SUITE 2700
INDIANAPOLIS IN 46204

In re Patent No. 7,964,147	: DECISION ON
Schulat, et al.	: REQUEST FOR RECONSIDERATION
Application No. 11/474,861	: of PATENT TERM ADJUSTMENT
Issue Date: June 21, 2011	:
Filed: June 23, 2006	:
Attorney Docket No. 9134-0244	:

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT PURSUANT TO 37 C.F.R. §1.705(d)", filed June 27, 2011, requesting that the patent term adjustment indicated on the above-identified patent be corrected from six hundred fifty-six (656) days to eight hundred sixty-five (865) days.

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

On June 21, 2011, the instant application matured into U.S. Patent No. 7,964,147 with a patent term adjustment of 656 days. The Office determined a patent term adjustment of 656 days based upon 323 days of Office delay pursuant to 37 CFR 1.703(a)(1) and 375 days pursuant to CFR 1.703(b), reduced by 1 day of Applicant delay pursuant to 37 CFR 1.704(b), and 41 days of Applicant delay pursuant to 37 CFR 1.704(c)(10).

The proper amount of days over 36 months from the filing date of the application until the issue date was included in the "B" delay period. The over three year period began on June 24, 2009 and ended on January 27, 2011 (the day before applicant filed an RCE), and is 583 days. See 35 U.S.C. 154(b)(1)(B)(i).

However, 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 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).

Here the period consumed by appellate review is 208 days, beginning on May 14, 2009, the date of filing of the notice of appeal, and ending on December 7, 2009, the date the examiner reopened prosecution by mailing a non-final Office action. Thus, B delay is 375 (583-208) days.

In view thereof, the correct number of days of patent term adjustment is **six hundred fifty-six (656)** days (323 days of "A" delay and 375 days of "B" delay, reduced by 42 days of Applicant delay).

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

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

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

Cliff Congo
Petitions Attorney
Office of Petitions

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DEC 15 2010
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In re Application of	:	
Tuschl et al.	:	
Application No. 11/474,919	:	DECISION ON PETITION
Filed: June 26, 2006		TO WITHDRAW FROM RECORD
Attorney Docket No. W0571.70010US07	:	
	:	

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 28, 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 Helen C. Lockhart, on behalf of all attorneys of record who are associated with Customer Number 23628.

All attorneys/agents associated with the Customer Number 23628 have been withdrawn. Currently, Robert B. Murray Reg. No. 22,980, Nancy Linck Reg. No. 31,920, and Monica Kitts Reg. 36,105 are the attorneys of record in the above-identified application.

All future correspondence will be directed to the assignee at the address indicated below.

In order to assure that all interests are properly and effectively represented, further correspondence to the United States Patent and Trademark Office (USPTO) in this

application - or resultant patent-- must be signed by both: (1) a registered practitioner representing Max- Planck; and (2) a registered practitioner representing the interests of the other co-assignees. Any counsel when signing subsequent papers must indicate whom he or she represents.

Since there is no agreement between the parties as to the correspondence address, the correspondence address for this application will be with the successors of Wolf Greenfield & Sacks, P.C, which is White Institute for Biomedical Research. Also, the successors of Wolf Greenfield & Sacks, P.C will be responsible for coordinating replies or submissions to the USPTO, unless the parties otherwise agree after the mailing date of this decision. In the event that the parties agree on a different correspondence address, a change of correspondence address, signed as discussed above, should be filed.

All parties are reminded that dual correspondence is not permitted, and will not be undertaken by the USPTO.

Currently, a Notice of Appeal was filed August 9, 2010 in the above-identified application.

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: White Institute for Biomedical Research
9 Cambridge Center, Room 111
Cambridge, MA 02142

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

WOLF GREENFIELD & SACKS, P.C.
600 Atlantic Avenue
Boston, MA

MAILED

NOV 22 2010

OFFICE OF PETITIONS

In re Application of	:	
Thomas Tuschl, et al.	:	
Application No. 11/474,930	:	DECISION ON PETITION
Filed: June 26, 2006	:	TO WITHDRAW
Attorney Docket No. W0571.70010US04	:	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 28, 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 Helen C. Lockhart 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.

The application became abandoned for failure to file an Appeal Brief in response to the filing of the Notice of Appeal that was filed on March 2, 2010.

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: **Whitehead Institute for Biomedical Research**
9 Cambridge Center, Room 11
Cambridge, MA 02142

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/474,930	06/26/2006	Thomas Tuschl	W0571.70010US04

CONFIRMATION NO. 8007

POWER OF ATTORNEY NOTICE

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

OC000000044610147

Date Mailed: 11/22/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/28/2010.

- 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.

/tsjohnson/

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

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600 Atlantic Avenue
Boston, MA

MAILED

NOV 22 2010

OFFICE OF PETITIONS

In re Application of	:	
Thomas Tuschl, et al.	:	
Application No. 11/474,932	:	DECISION ON PETITION
Filed: June 26, 2006	:	TO WITHDRAW
Attorney Docket No. W0571.70010US06	:	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 28, 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 Helen C. Lockhart 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.

The application became abandoned for failure to file an Appeal Brief in response to the filing of the Notice of Appeal that was filed on March 2, 2010.

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: **Whitehead Institute for Biomedical Research**
9 Cambridge Center, Room 11
Cambridge, MA 02142

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/474,932	06/26/2006	Thomas Tuschl	W0571.70010US06

CONFIRMATION NO. 8004

POWER OF ATTORNEY NOTICE

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

OC000000044598622

Date Mailed: 11/19/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/28/2010.

- 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.

/tsjohnson/

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

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/474,960	06/27/2006	Takeo Watanabe	008312-0355881	1726

EXAMINER
INTAVONG, JIRAPON

ART UNIT	PAPER NUMBER
2614	

NOTIFICATION DATE	DELIVERY MODE
02/28/2011	ELECTRONIC

7590 02/28/2011
PILLSBURY WINTHROP SHAW PITTMAN, LLP
P.O. BOX 10500
MCLEAN, VA 22102

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Nioni Farmer

Patent Publication Branch
Office of Data Management

FORM PET651G (Rev. 08/07)

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.
11/475,034	06/27/2006	Yuichi Shibazaki	128522	9429

25944 7590 01/11/2012
OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA, VA 22320-4850

EXAMINER
LEE, HWA S

ART UNIT	PAPER NUMBER
2886	

NOTIFICATION DATE	DELIVERY MODE
01/11/2012	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):

OfficeAction25944@oliff.com
jarmstrong@oliff.com

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Applicant : Yuichi Shibazaki
Appl No.: 11/475,034
Filed: June 27, 2006

DECISION GRANTING PETITION UNDER *37 CFR 1.48*

This decision is in response to the petition filed May 20, 2008 in the above-identified application. Petitioner requests that inventorship be corrected in accordance with 37 C.F.R. 1.48 (b).

Specifically, the petition requests that Yasuhiro HIDAKA be deleted as co-inventors.

The papers filed on May 20, 2008 thus fulfill the requirements set forth in 37 C.F.R. 1.48(b), and the petition is GRANTED.

Tarifur Chowdhury
Supervisory Patent Examiner, Art Unit 2886
Technology Center 2800

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Decision Date : February 27, 2012

In re Application of :

Yuichi Shibazaki

DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 11475034

Filed : 27-Jun-2006

Attorney Docket No : 128522

This is an electronic decision on the petition under 37 CFR 1.313(c)(2), filed February 27, 2012 , to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

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

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

This application file is being referred to Technology Center AU 2886 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	11475034
Filing Date	27-Jun-2006
First Named Inventor	Yuichi Shibazaki
Art Unit	2886
Examiner Name	HWA LEE
Attorney Docket Number	128522
Title	REFLECTOR, OPTICAL ELEMENT, INTERFEROMETER SYSTEM, STAGE DEVICE, EXPOSURE APPARATUS, AND DEVICE FABRICATING METHOD

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	/Mario A. Costantino/
Name	Mario A. Costantino
Registration Number	33565

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Paper No.

FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW CA 94041

MAILED

NOV 18 2010

OFFICE OF PETITIONS

In re Application of	:	
Kwak et al.	:	DECISION ON
Application No. 11/475,133	:	PETITION
Filed: June 27, 2006	:	
Attorney Docket No.27229-16213	:	

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 was abandoned for failure to timely file a proper reply to the final Office action mailed January 22, 2010. This Office action set a shortened statutory period for reply of three (3) months from the mail date of the action. No reply having been received and no extension of time obtained, the application became abandoned effective April 23, 2010. A courtesy Notice of Abandonment was mailed on September 13, 2010.

On petition, petitioner submitted a Request for Continued Examination (RCE) and submission under §1.114 (in the form of an amendment)(and RCE fee); paid the petition fee; and made the required statement of unintentional delay.

Technology Center AU 2887 has been advised of this decision. The application is, thereby, forwarded to the examiner for consideration of the RCE and submission submitted on petition filed September 21, 2010.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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MAILED
AUG 12 2011
OFFICE OF PETITIONS

ROSENBERG, KLEIN & LEE
3458 ELLICOTT CENTER DRIVE-SUITE 101
ELLICOTT CITY, MD 21043

In re Patent No. 7,256,603	:	
Issued: August 14, 2007	:	
Application No. 11/475,147	:	NOTICE
Filed: June 27, 2006	:	
Attorney Docket No.: MR1957-1276	:	

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

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : April 11, 2010

TO SPE OF : ART UNIT 1712
SUBJECT : Request for Certificate of Correction for Appl. No /11/475205 patent 7339008

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Magdalene Talley

Certificates of Correction Branch

571-272-0423 _____

Thank You For Your Assistance

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

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

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

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

Comments: _____

/Randy Gulakowski/, SPE 1796 — **SPE**

1796 — **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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1000 TOWN CENTER, TWENTY-SECOND FLOOR
SOUTHFIELD, MI 48075-1238

MAILED

NOV 23 2010

OFFICE OF PETITIONS

In re Application of :
David Dice et al :
Application No. 11/475,262 :
Filed: June 27, 2006 :
Attorney Docket No. SUN061191-US-NP

ON PETITION

This is a decision on the petition, filed November 22, 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 22, 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 2186 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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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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BROOKS KUSHMAN P.C. /ORACLE AMERICA/ SUN / STK
1000 TOWN CENTER, TWENTY-SECOND FLOOR
SOUTHFIELD MI 48075-1238

MAILED
JUL 06 2011
OFFICE OF PETITIONS

In re Application of :
David Dice et al :
Application No. 11/475,262 : ON PETITION
Filed: June 27, 2006 :
Attorney Docket No. SUN061191-US-NP

This is a decision on the petition, filed June 5, 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 April 20, 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 2186 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
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GALLAGHER & KENNEDY, P. A.
2575 E. CAMELBACK RD. #1100
PHOENIX AZ 85016

MAILED

SEP 30 2010

OFFICE OF PETITIONS

In re Application of	:	
Jeffrey T. LaBelle et al.	:	
Application No. 11/475,338	:	DECISION ON PETITION
Filed: June 26, 2006	:	TO WITHDRAW
Attorney Docket No. 17924-0005	:	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 August 18, 2010.

The request is **NOT APPROVED**.

A review of the file record indicates that Andrea Stone does not have power of attorney in this patent application. The oath and declaration filed June 26, 2006 appointed Thomas D. MacBain as attorney/agent of record. 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 Kimberly Inabinet at 571-272-4618.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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GALLAGHER & KENNEDY, P. A.
2575 E. CAMELBACK RD. #1100
PHOENIX AZ 85016

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DEC 06 2010

OFFICE OF PETITIONS

In re Application of	:	
Jeffrey T. LaBelle et al.	:	
Application No. 11/475,338	:	DECISION ON PETITION
Filed: June 26, 2006	:	TO WITHDRAW
Attorney Docket No. 17924-0005	:	FROM RECORD
	:	

This is a decision on the renewed Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed November 1, 2010.

The request is **NOT APPROVED**.

A review of the file record indicates that Andrea Stone does not have power of attorney in this patent application. The oath and declaration filed June 26, 2006 appointed Thomas D. MacBain as attorney/agent of record. Attorneys were appointed by registration number, not a customer number. 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 Kimberly Inabinet at 571-272-4618.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

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GALLAGHER & KENNEDY, P. A.
2575 E. CAMELBACK RD. #1100
PHOENIX AZ 85016

MAILED

OCT 18 2010

OFFICE OF PETITIONS

In re Application of	:	
Jeffrey T. LaBelle et al.	:	
Application No. 11/475,343	:	DECISION ON PETITION
Filed: June 26, 2006	:	TO WITHDRAW
Attorney Docket No. 17924-0004	:	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 August 18, 2010.

The request is **NOT APPROVED**.

A review of the file record indicates that Andrea Stone does not have power of attorney in this patent application. The oath and declaration filed June 26, 2006 appointed Thomas D. MacBain as attorney/agent of record. 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 Kimberly Inabinet at 571-272-4618.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

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NOV 15 2010

OFFICE OF PETITIONS

GALLAGHER & KENNEDY, P. A.
2575 E. CAMELBACK RD. #1100
PHOENIX AZ 85016

In re Application of	:	
Jeffrey T. LaBelle et al.	:	
Application No. 11/475,343	:	DECISION ON PETITION
Filed: June 26, 2006	:	TO WITHDRAW
Attorney Docket No. 17924-0004	:	FROM RECORD
	:	

This is a decision on the renewed Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed November 1, 2010.

The request is **NOT APPROVED**.

A review of the file record indicates that Andrea Stone does not have power of attorney in this patent application. The oath and declaration filed June 26, 2006 appointed Thomas D. MacBain as attorney/agent of record. Attorneys were appointed by registration number, not a customer. 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 Kimberly Inabinet at 571-272-4618.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 01/30/12

TO SPE OF : ART UNIT ~~3781~~ 3788 TOP

SUBJECT : Request for Certificate of Correction for Appl. No.: 11475349 Patent No.: 7922024

CofC mailroom date: 01/12/12

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Note: **Should the changes 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.

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: None

[signature] 3788

SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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GALLAGHER & KENNEDY, P. A.
2575 E. CAMELBACK RD. #1100
PHOENIX AZ 85016

MAILED

SEP 30 2010

OFFICE OF PETITIONS

In re Application of	
Jeffrey T. LaBelle et al.	
Application No. 11/475,356	DECISION ON PETITION
Filed: June 26, 2006	TO WITHDRAW
Attorney Docket No. 17924-0006	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 August 18, 2010.

The request is **NOT APPROVED**.

A review of the file record indicates that Andrea Stone does not have power of attorney in this patent application. The oath and declaration filed June 26, 2006 appointed Thomas D. MacBain as attorney/agent of record. 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 Kimberly Inabinet at 571-272-4618.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Gallagher & Kennedy, P.A.
2575 E. Camelback Road, #1100
Phoenix, AZ 85016

MAILED

NOV 12 2010

OFFICE OF PETITIONS

In re Application of
Jeffrey T. LaBelle et al.
Application No. 11/475,356
Filed: June 26, 2006
Attorney Docket No. 17924-0006

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 November 1, 2010.

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 all attorneys/agents associated with customer number 28529 has been revoked by the inventors of the patent application on November 1, 2010. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Jack S. Emery, P.A.
P.O. Box 7941
Temple, AZ 85281

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/475,356	06/26/2006	Jeffrey T. LaBelle	17924-0006

CONFIRMATION NO. 1889

POWER OF ATTORNEY NOTICE

28529
GALLAGHER & KENNEDY, P. A.
2575 E. CAMELBACK RD. #1100
PHOENIX, AZ 85016

OC000000044420880

Date Mailed: 11/10/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/01/2010.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

/mimay/

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
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/475,429	06/26/2006	Norbert Jaeger	FLGDK3.001C1	2043

20995 7590 11/30/2011
KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

EXAMINER
AHMED, SHEEBA

ART UNIT	PAPER NUMBER
1794	

NOTIFICATION DATE	DELIVERY MODE
11/30/2011	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 th following e-mail address(es):

jcartee@kmob.com
efiling@kmob.com
eOAPilot@kmob.com

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

Patent No. : 7,572,519 B2
Application No.: 11/475,429
Issued : August 11, 2009
Inventor : Norbert Jaeger

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 or R 1.323.

Respecting the alleged error, on the title page item (62), is an editing change made in accordance with the style of the Invention Patent Manual. Therefore, no correction(s) is in order here under United States Codes (U.S.C.) 254 or 255 the Code of Federal Regulation (C.F.R.) R 1.322 or R 1.323.

In view of the foregoing, your request in this matter is denied. The change will read as followings: under Foreign Application Priority Data.....00121408

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.

A ceritificate will issue to correct the remaining errors noted in your request.

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

Karoline A. Delaney
Knobbe, Martens, Olson & Bear, LLP
2040 Main Street, 14th Floor
Irvine, CA 92614

ej

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

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

MAILED

APR 11 2011

OFFICE OF PETITIONS

In re Application of
Royce A. Levien, et. al.
Application No. 11/475,516
Filed: June 26, 2006
Attorney Docket No. QQ1-0109US

DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR §§ 1.36(b) or 10.40 filed January 27, 2011.

The request is **MOOT**.

A review of the file record indicates that any previous power of attorney was revoked on January 31, 2011. Accordingly, the request to withdraw under 37 CFR §§ 1.36(b) or 10.40 is unnecessary.

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

This application is being referred to Technology Center 2400 for further processing.

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

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Lee & Hayes, PLLC
601 W Riverside
Suite 1400
Spokane, WA 99201

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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DIW Dec-11

LEE WEINSTEIN
32A FAIRMONT STREET
ARLINGTON MA 02474

MAILED
DEC 19 2011
OFFICE OF PETITIONS

In re Application of	:	
Gainsboro et al.	:	
Application Number: 11/475,541	:	ON PETITION
Filing Date: 06/26/2006	:	
Attorney Docket Number:	:	
JayConversRPA2	:	

This is a decision in response to the petition under 37 CFR 1.137(b) filed on November 28, 2011, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on March 9, 2011, for failure to timely file a proper reply to the non-final Office action mailed on December 8, 2010, which set a three (3)-month shortened statutory period for reply. No extension of the time for reply in accordance with 37 CFR 1.136(a) was obtained. The filing of the present petition precedes the mailing of Notice of Abandonment.

Receipt of the amendment filed on November 28, 2011 is acknowledged.

The application is referred to the Technology Center Art Unit 2614 for further processing.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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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LUCAS & MERCANTI, LLP
475 PARK AVENUE SOUTH
15TH FLOOR
NEW YORK, NY 10016

MAILED

NOV 17 2010

OFFICE OF PETITIONS

In re Application of
Ralf EISERMANN
Application No. 11/475,779
Filed: June 27, 2006
Attorney Docket No. LSP-15-CON-2

DECISION ON PETITION

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

The petition is **GRANTED**.

The application became abandoned for failure to submit corrected drawings in a timely manner in reply to the Notice of Allowance and Fee(s) Due, mailed April 30, 2010, which set a period for reply of three (3) months. Accordingly, this application became abandoned on July 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 corrected drawings, (2) the petition fee of $1620; and (3) a proper statement of unintentional delay.

The Examiner assigned to this application has approved the corrected drawings filed with the petition on August 19, 2010.

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

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MERCK
PATENT DEPARTMENT (K-6-1, 1990)
2000 GALLOPING HILL ROAD
KENILWORTH NJ 07033-0530

MAILED
JAN 19 2011
OFFICE OF PETITIONS

In re Application of	:	
Biju	:	
Application No. 11/475,789	:	ON REQUEST FOR
Filed: June 27, 2006	:	RECONSIDERATION OF
Attorney Docket Number: OC06382US01	:	PATENT TERM ADJUSTMENT

This is a decision on the petition under 37 CFR 1.705(b), filed December 1, 2010. Applicant believes that he should be accorded an additional PTA of 557 days. Applicant requests this correction on the basis that the Office will take in excess of three years to issue this patent.

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

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

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

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

In view thereof, the correct determination of PTA prior to issuance is **six hundred eighty-one (681) days**.

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

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

Anthony Knight
Director
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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CURATOLO SIDOTI CO., LPA
24500 CENTER RIDGE ROAD, SUITE 280
CLEVELAND, OH 44145

MAILED
JUN 24 2011
OFFICE OF PETITIONS

In re Application of Stephen P. Palisin Jr. Application No. 11/475,801 Filed: June 27, 2006 Attorney Docket No. SDC.P1100	: : : : :	ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 10, 2011, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed October 19, 2010, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on December 20, 2010. *See* MPEP 1215.04.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Appeal Brief and fee of $270, (2) the petition fee of $810 , and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 3781 for appropriate action by the Examiner in the normal course of business.

A. Kelley Collier

Alicia Kelley-Collier
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 January 26, 2012

In re Application of Paul Zupkas

Application No. 11475809

Filed: 26-Jun-2006

Attorney Docket No. 8141-003-US-CIP

DECISION ON PETITION

UNDER CFR 1.137(b)

This is an electronic decision on the petition under 37 CFR 1.137(b), January 26, 2012 , to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the outstanding Office communication. The date of abandonment is the day after the last day of the period set for reply in the Office action plus any applicable extensions of time properly requested.

The electronic petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a response; (2) the petition fee as set forth in 37 CFR 1.17 (m); and (3) the required statement of unintentional delay have been received. Accordingly, the response is accepted as having been unintentionally delayed.

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

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

This application file is being directed to the Technology Center.

Office of Petitions

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

Electronic Petition Request	**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)**
Application Number	11475809
Filing Date	26-Jun-2006
First Named Inventor	Paul Zupkas
Attorney Docket Number	8141-003-US-CIP
Title	Transluminal drug delivery methods and devices

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus any extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
(4) Statement that the entire delay was unintentional

Petition Fee

- ○ Applicant claims SMALL ENTITY status. See 37 CFR 1.27.
- ○ Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).
- ◉ Applicant(s) status remains as SMALL ENTITY.
- ○ Applicant(s) status remains as other than SMALL ENTITY.

2. Reply and/or fee

- ○ I certify, in accordance with 37 CFR 1.4(d)(4) that the amendment and response have already been filed in the above-identified application on
- ◉ Amendment and response are attached

RCE request,submission, and fee.

- ○ I certify, in accordance with 37 CFR 1.4(d)(4) that the RCE Request, Submission, and Fee have already been filed in the above-identified application on
- ○ RCE Request, Submission, and Fee are attached

Notice of Appeal

○ I certify, in accordance with 37 CFR 1.4(d)(4) that the Notice of Appeal and Fee have already been filed in the above-identified application on

○ Notice of Appeal and Fee are attached

3. Terminal Disclaimer is not required, since the Electronic Petition format is not support for Design applications and applications filed before June 8, 1995. Please file using regular petition format for review by the Office of Petitions.

☒ STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional.

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

○ An attorney or agent registered to practice before the Patent and Trademark Office who has been given power of attorney in this application.

◉ An attorney or agent registered to practice before the Patent and Trademark Office, acting in a representative capacity.

○ A sole inventor

○ A joint inventor; I certify that I am authorized to sign this submission on behalf of all of the inventors

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

○ The assignee of record of the entire interest that has properly made itself of record pursuant to 37 CFR 3.71

Signature	/Michael B. Farber/
Name	Michael B. Farber
Registration Number	32612

UNITED STATES PATENT AND TRADEMARK OFFICE

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MERCK
PATENT DEPARTMENT (K-6-1, 1990)
2000 GALLOPING HILL ROAD
KENILWORTH NJ 07033-0530

MAILED

SEP 27 2010

OFFICE OF PETITIONS

In re Application of	:
Biju	: DECISION ON APPLICATION
Application No. 11/475,811	: FOR PATENT TERM ADJUSTMENT
Filed: June 27, 2006	: AND NOTICE OF INTENT
Patent No. 7,718,678	: TO ISSUE CERTIFICATE
Issued: May 18, 2010	: OF CORRECTION
Attorney Docket No. OC06383US01	:

This decision is in response to the "Request for Reconsideration of Patent Term Adjustment Under 37 C.F.R. §1.705(d)", filed July 12, 2010. Patentee requests that the patent term adjustment under 35 U.S.C. §154(b) be corrected from forty (40) days to thirty-nine (39) days.

The request for correction of the patent term adjustment (PTA) is **GRANTED**.

On May 18, 2010, the above-identified application issued into Patent No. 7,718,678 with a patent term adjustment of forty (40) days. On July 12, 2010, patentee filed the instant application for patent term adjustment, pointing out that the correct patent term should only be thirty-nine (39) days.

The Office determined a patent term adjustment of forty (40) days based on an adjustment for PTO delay of one hundred fifty-three (153) days, pursuant to 35 U.S.C. 154(b)(1)(B) and 37 C.F.R. § 1.703(b, reduced by applicant's delays of fifty-nine (59), twenty-eight (28), and twenty-six (26) days pursuant to 37 C.F.R. § 1.704(b). The adjustment of 153 days is at issue.

The application was filed on June 27, 2006. Accordingly, the three year date pursuant to 37 C.F.R. § 1.703(b) began on June 28, 2009, and ended on December 27, 2009 (as applicant filed an RCE on December 18, 2009). This period equals 173 days. However, pursuant to 37 C.F.R. §1.703(b)(4), the number of days the application was under appeal is subtracted from the 173 days. Applicant filed the Notice of Appeal on September 11, 2009, and the Office mailed a Notice of Allowance on October 1, 2009. As such, the number of days pursuant to 37 C.F.R. § 1.703(b)(4) equals 21 days. In view thereof, total Office delay pursuant to 37 C.F.R. §1.703(b) equals 152 days, not 153 days.

In view thereof, issuance of a certificate of correction pursuant to 35 U.S.C. 254 and 37 CFR § 1.322 is appropriate. The correct number of days of patent term adjustment is 39 days (152) days of PTO delay, reduced by 113 days of applicant delay).

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify the error regarding the patent term information. See 35 U.S.C. § 254 and 37 C.F.R. § 1.322. The certificate of correction will indicate that the term of the above-identified patent is extended or adjusted by **thirty-nine (39)** days subject to any disclaimers.

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

Anthony Knight
Director
Office of Petitions

Enc: Draft Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,718,678 B2

DATED : **May 18, 2009**

INVENTOR(S) : Biju

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 40 days.

Delete the phrase "by 40 days" and insert – by 39 days--

PTO/SB/131 (01-10)
Approved for use through 02/28/2011. OMB 0651-0020
U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH**

Attorney Docket Number: SUNM060908PUSP	Patent Number: 7669015
Filing Date (or 371(b) or (f) Date): Jun-27-2006	Issue Date: 2-Feb-2010
First Named Inventor: DICE, DAVID	
Title: METHODS AND APPARATUS TO IMPLEMENT PARALLEL TRANSACTIONS	

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

Instruction Sheet for: REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH**

(Not to be Submitted to the USPTO)

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

This form must be filed within 180 days of the day the patent was granted, with the following exception:

> Patentees who received a decision from the USPTO under the USPTO's pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A) may file a request for reconsideration of that decision if such a request for reconsideration is filed within **two months** of the date of the decision (37 CFR 1.181(f)). If the patentee's sole basis for requesting reconsideration of the decision is the USPTO's pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A), the request for reconsideration need only state that reconsideration is being requested in view of Wyeth (this form may be used for this purpose if it is filed within **two months** of the date of the decision from the USPTO).

Do not use this form if the application has been allowed, but not yet issued as a patent.

1. **For patents issued before March 2, 2010:** A request for reconsideration under 37 CFR 1.705(d) and the fee set forth in 37 CFR 1.18(e) are not required, provided that the patentee's sole basis for requesting recalculation of the PTA in the patent is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A) and this form is filed within 180 days of the day the patent was granted.

2. **For patents issued on or after March 2, 2010 (do not use this form):** Patentees seeking a revised PTA in a patent issued on or after March 2, 2010, must file a request for reconsideration under 37 CFR 1.705(d) that complies with the requirements of 37 CFR 1.705(b)(1) and (b)(2) within two months of the day the patent issued.

For more information, see "Notice Concerning Calculation of the Patent Term Adjustment With Respect to the Overlapping Delay Provision of 35 U.S.C. 154(b)(2)(A)" available on the USPTO Web site at http://www.uspto.gov/patents/law/notices/2010.jsp.

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

Privacy Act Statement

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

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

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

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BROOKS KUSHMAN P.C. /Oracle America/ SUN / STK
1000 TOWN CENTER, TWENTY-SECOND FLOOR
SOUTHFIELD, MI 48075-1238

Mail Date: 10/07/2010

Applicant	: David Dice	: DECISION ON REQUEST FOR
Patent Number	: 7669015	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/475,814	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/27/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **557** 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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KARL M. STEINS
STEINS & ASSOCIATES
2333 CAMINO DEL RIO SOUTH
SUITE 120
SAN DIEGO, CA 92108

MAILED
SEP 27 2010
OFFICE OF PETITIONS

In re Application of	:	
Darren Stout	:	
Application No. 11/475,817	:	DECISION ON PETITION
Filed: June 26, 2006	:	
Attorney Docket No. QUI1-I96	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 13, 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 4, 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 June 5, 2009.

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

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

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

This application is being referred to Technology Center AU 3618 for appropriate action by the Examiner in the normal course of business on the reply received August 13, 2010.

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

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JUN 23 2011
OFFICE OF PETITIONS

MCCARTER & ENGLISH, LLP NEWARK
FOUR GATEWAY CENTER
100 MULBERRY STREET
NEWARK NJ 07102

In re Application of	:	
MARLOWE	:	
Application No. 11/475,847	:	DECISION ON PETITION
Filed: June 27, 2006	:	TO WITHDRAW
Attorney Docket No. 99879-00026	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 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. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request was signed by Michael R. Friscia on behalf of the attorneys of record associated with Customer No. 27614.

The attorneys of record associated with Customer No. 27614 have been withdrawn.

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

The correspondence address of record has been changed and the new correspondence address is the address copied below until otherwise properly notified.

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

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

cc: IRA M. MARLOWE
BLITZSAFE OF AMERICA, INC.,
33 HONECK STREET
ENGLEWOOD NJ 07631

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/475,847	06/27/2006	Ira Marlowe	99879-00026

CONFIRMATION NO. 9001

POWER OF ATTORNEY NOTICE

27614
MCCARTER & ENGLISH, LLP NEWARK
FOUR GATEWAY CENTER
100 MULBERRY STREET
NEWARK, NJ 07102

OC000000048295847

Date Mailed: 06/20/2011

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/06/2011.

- 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.

/dcgoodwyn/

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

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

Mail Date: 10/07/2010

Applicant	: Mikio Ueyama	: DECISION ON REQUEST FOR
Patent Number	: 7650217	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/475,928	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/28/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **821** 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.

K&L Gates LLP
3580 Carmel Mountain Road
Suite 200
San Diego CA 92130

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JUN 03 2011
OFFICE OF PETITIONS

In re Patent No. 7,884,073	:	
Guyon et al.	:	
Issue Date: February 8, 2011	:	DECISION ON REQUEST FOR
Application No. 11/476,173	:	RECONSIDERATION OF
Filed: June 26, 2006	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 3800073.00023	:	
/925B	:	

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT PURSUANT TO 37 CFR § 1.705(D)," filed March 21, 2011, requesting that the patent term adjustment indicated on the above-identified patent be corrected from four hundred twenty-eight (428) days to four hundred twenty-nine (429) days.

The request for reconsideration of patent term adjustment is **DISMISSED AS UNTIMELY FILED**.

Patentee is given **TWO (2) MONTHS** to respond to this decision. No extensions of time will be granted under § 1.136(a).

On February 8, 2011, the above-identified application matured into U.S. Patent No. 7,884,073, with a revised patent term adjustment of 428 days. On March 21, 2011, patentee submitted this request for reconsideration of patent term adjustment (with required fee), asserting that the correct number of days of patent term adjustment is 429 days. Patentee argues that the 1 day of applicant delay assessed on June 10, 2009 is a clerical error.

35 U.S.C. 154(b) provides for patent term adjustment for examination delay. Pursuant to 35 U.S.C. 154(b)(3)(B) and implementing regulation 37 C.F.R. § 1.705, an applicant shall receive an initial determination of patent term adjustment with

the mailing of the Notice of Allowance and shall be given one opportunity to request reconsideration of that determination by way of filing of an application for patent term adjustment prior to the payment of the issue fee.

With the mailing of the Notice of Allowance on March 23, 2010, applicant was advised that the initial determination of patent term adjustment was 129 days. This determination was based in part on the now disputed period of reduction of 1 day associated with applicant's filing of an Information Disclosure Statement on June 10, 2009. The issue fee payment was received in the Office on June 7, 2010. No filing of an application for patent term adjustment preceded the payment of the issue fee. The period for filing an application for patent term adjustment requesting reconsideration of the initial determination of patent term adjustment at the time of mailing of the notice of allowance ended June 7, 2010. Accordingly, it is appropriate to dismiss this petition as untimely filed under 1.705(b).

Consideration under 1.705(d) is not appropriate. As stated in MPEP 2730, 1.703(d) provides that:

> If there is a revision to the patent term adjustment indicated in the notice of allowance, the patent will indicate the revised patent term adjustment. If the patent indicates or should have indicated a revised patent term adjustment, any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued and must comply with the requirements of paragraphs (b)(1) and (b)(2) of this section. Any request for reconsideration under this section that raises issues that were raised, or could have been raised, in an application for patent term adjustment under paragraph (b) of this section shall be dismissed as untimely as to those issues.

The issue raised should have been timely raised on application for patent term adjustment under § 1.705(b).

It is acknowledged that patentee filed, on June 7, 2010, a "Letter Regarding Patent Term Adjustment at Allowance Pursuant to Comment 43 of the Final Rule," disclosing that the applicant delay may be understated, which could result in the recalculated Total PTA at Issuance being longer than appropriate. This letter was pending in the Office on July 20, 2010, and thus, was

placed in the file of the application without further review. See *Treatment of Letters Stating that the USPTO's Patent Term Adjustment Determination is Greater than what the Applicant or Patentee Believes is Appropriate*, 75 FR 42079 (July 20, 2010).

Patentee notes that the request for correction of the 1 day of applicant delay associated with the filing of the IDS on June 10, 2009 was included in the candor letter filed June 7, 2010. A review of the Candor Letter confirms that this request for correction was noted in the letter, along with reference to applicant delays that applicant stated should have been included in the determination of patent term adjustment.

The fact that the correction was noted in the candor letter does not make the instant request for reconsideration timely. The candor letter advised the Office that the patent term adjustment was longer than appropriate and thus, was appropriately placed in the application file without further review. The candor letter was not filed as and was not treated as an application for patent term adjustment under 37 CFR 1.705(b).

Moreover, a review of the candor letter reveals that this request for reconsideration of patent term adjustment makes no request for correction with respect to the applicant delays that set forth the basis of the disclosure that the patent term adjustment was longer than appropriate. Nor does patentee now explain that the earlier disclosure of additional applicant delay was not correct. In sum, patentee asks for an additional day of patent term adjustment without also disclosing that entry of additional periods of reduction is warranted. In effect, at issuance, patentee has removed the candor and asserted only that the initial determination of patent term adjustment be increased. This is inconsistent with the Office's treatment of both candor letters and requests under 37 CFR 1.705. This is not what was intended by the July 20, 2010 Notice.

Consideration of the request for correction of the initial determination of patent term adjustment under 37 CFR 1.705(d) is appropriately dismissed as untimely filed.

Considering all of the disclosures of record, patentee is not required to, but also is not precluded from filing a terminal disclaimer disclaiming any period considered in excess of the appropriate patent term adjustment.

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

Patentee is not required to, but also is not precluded from filing a terminal disclaimer disclaiming any period considered in excess of the appropriate patent term adjustment.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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KRATZ, QUINTOS & HANSON, LLP
1420 K Street, N.W.
4th Floor
WASHINGTON, DC 20005

MAILED
MAR 05 2012
OFFICE OF PETITIONS

In re Application of	:	
Masahito Kanamura, et al.	:	
Application No. 11/476,205	:	DECISION GRANTING PETITION
Filed: June 28, 2006	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 060490	:	

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 21, 2012 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2894 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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

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

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OFFICE OF PETITIONS

STETINA BRUNDA GARRED & BRUCKER
75 ENTERPRISE, SUITE 250
ALISO VIEJO, CA 92656

In re Application of	:	
Michael J. Petersen	:	
Application No. 11/476,267	:	ON PETITION
Filed: June 28, 2006	:	
Attorney Docket No.: PTSNM-001C	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 19, 2010, to revive the above-identified application for copendency with a continuing application.

The petition is **GRANTED**.

Petitioner seeks revival solely for obtaining copendency with continuing application No. 12/481,835 filed June 10, 2009, in that the necessary continuity inadvertently was not maintained at that time.

Since this application is being revived for purposes of continuity with application No. 12/481,835, and continuity having been established by this decision reviving the above-captioned application, the above-captioned application is again abandoned in favor of the continuing application.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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GREENSFELDER HEMKER & GALE PC
SUITE 2000
10 SOUTH BROADWAY
ST. LOUIS MO 63102

MAILED

FEB 08 2011

OFFICE OF PETITIONS

In re Application of	:	
Alexander S. Chau	:	
Application No. 11/476,274	:	DECISION ON PETITION
Filed: June 28, 2006	:	
Attorney Docket No. 17195-88087	:	

This is a decision on the petition, filed July 27, 2010, which is being treated as a petition under 37 CFR 1.8(b), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely file a proper reply to the Office action of March 29, 2010, which set a one (1) month period for reply. Accordingly, a reply was due on or before April 29, 2010.

Petitioner states that a timely reply was transmitted via certificate of facsimile transmission on July 27, 2010, which included the following papers: Amended Response to Office Action and a Petition For Extension of Time Under 37 CFR 1.136(a) for three (3) months. Petitioner has submitted a copy of the previously transmitted correspondence, which bears a certificate of facsimile transmission dated July 27, 2010, which would have rendered the reply timely if received.

The file record does not include the originally submitted papers. Failure to receive correspondence which includes a certificate of mailing or certificate of facsimile transmission is addressed in 37 CFR 1.8(b), reproduced below:

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

(1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;

(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and

(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

The petition satisfies the above requirements of 37 CFR 1.8(b). Accordingly, the holding of abandonment for failure to timely file a reply to the Office action of March 29, 2010 is hereby withdrawn and the application restored to pending status.

The copy of the reply received with the petition will be accepted in place of the reply shown to have been transmitted by facsimile on July 27, 2010.

This application is being referred to Technology Center AU 3679 for appropriate action in the normal course of business on the reply received with petition.

/KOC
Karen Creasy
Petitions Examiner
Office of Petitions

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/476,320	06/28/2006	Anthony C. Gaeta	1035-D4552-US	5155

7590 09/19/2011
ABEL LAW GROUP, LLP
7300 FM 2222
Bldg 1, Ste 210
AUSTIN, TX 78730

EXAMINER
PARVINI, PEGAH

ART UNIT	PAPER NUMBER
1731	

NOTIFICATION DATE	DELIVERY MODE
09/19/2011	ELECTRONIC

ACKNOWLEDGEMENT OF REQUEST

Notice of Allowance/Allowability Mailed

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

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

FORM PTOM327-5 (Rev. 02/08)

UNITED STATES PATENT AND TRADEMARK OFFICE

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

September 15, 2011

ABEL LAW GROUP, LLP
7300 FM 2222
Bldg 1, Ste 210
AUSTIN TX 78730

In re Application of	:	
Gaeta, Anthony C. et, al	:	**DECISION ON PETITION**
Application No. 11/476,320	:	
Filed: 06/28/2006	:	***ACCEPTANCE OF COLOR***
Attorney Docket No. 1035-D4552-US	:	***DRAWINGS***

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

GROSSMAN, TUCKER, PERREAULT
& PFLEGER, PLLC
C/O CPA GLOBAL
P.O. BOX 52050
MINNEAPOLIS MN 55402

MAILED

MAR 15 2011

OFFICE OF PETITIONS

In re Application of	:	
HASENPLAUGH, et al	:	
Application No. 11/476,329	:	DECISION ON PETITION
Filed: June 27, 2006	:	
Attorney Docket No. 42P24392	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 10, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue and publication fees on or before January 7, 2011, as required by the Notice of Allowance and Fee(s) Due, mailed October 7, 2010, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on January 8, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1510 and publication fee of $300; (2) the petition fee of $1620; and (3) the required 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) 272-6735.

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

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

cc: EDMUND P. PFLEGER
GROSSMAN, TUCKER, PERREAULT
& PFLEGER, PLLC
55 S. COMMERCIAL STREET,
MANCHESTER, NH 03101

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.
11/476,370	06/28/2006	Dong-Woo Kim	12576-7035	4603

7590 07/08/2011
BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60610

EXAMINER
OSORIO, RICARDO

ART UNIT	PAPER NUMBER
2629	

MAIL DATE	DELIVERY MODE
07/08/2011	PAPER

ACKNOWLEDGEMENT OF REQUEST

Notice of Allowance/Allowability Mailed

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

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

FORM PTOM327-5 (Rev. 02/08)

UNITED STATES PATENT AND TRADEMARK OFFICE

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

July 7, 2011

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

Re Application of
KIM, DONG-WOO, ET Al
Application: **11/476370**
Filed: **06/28/2006**
Attorney Docket No: **12576-7035**

: DECISION ON PETITION
: ACCEPTANCE OF COLOR
: DRAWINGS

This is a decision on the Renewal of Petition to Accept Color Drawings under 37 C.F.R 1.84 (a) (2), received in the United States Patent and Trademark Office (USPTO) March 26, 2008.

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD NJ 07090

MAILED

AUG 04 2010

OFFICE OF PETITIONS

In re Application of	:	
Leonard T. Butler, et al.	:	
Application No. 11/476,441	:	DECISION ON PETITION
Filed: June 27, 2006	:	TO WITHDRAW
Attorney Docket No. BUTLER 3.0-001	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 12, 2010.

The request is **NOT APPROVED**.

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

The Office 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 whose properly became of record under 37 CFR 3.71 or, the most current address information provided for the first named inventor.

Accordingly, the request to withdraw from record cannot be approved because the request does not include an acceptable current correspondence address for future communications from the Office.

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD, NJ 07090

MAILED

SEP 27 2010

OFFICE OF PETITIONS

In re Application of
Leonard T. Butler, Jr. et al.
Application No. 11/476,441
Filed: June 27, 2006
Attorney Docket No. Butler 3.0-001

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 19, 2010.

The request is **APPROVED**.

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

The request was signed by Arnold H. Krumholz on behalf of all attorneys of record who are associated with customer No. 00530. All attorneys/agents associated with the Customer Number 00530 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

There is an outstanding Office action mailed July 8, 2010 that requires a reply by the applicant.

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

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

cc: LEONARD P. BUTLER
15 LOCUST LANE
AQUINNAH, MA 02535

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/476,441	06/27/2006	Leonard T. Butler	BUTLER 3.0-001

CONFIRMATION NO. 4103

POWER OF ATTORNEY NOTICE

530
LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD, NJ 07090

OC000000043716417

Date Mailed: 09/27/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/19/2010.

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

/amwise/

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

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7264009	2007-09-04	11476453	2006-06-28	7877.3016.005

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	/Eric T. Jones/	Date (YYYY-MM-DD)	2011-11-07
Name	Eric T. Jones	Registration Number	40037

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 7264009
Issue Date: September 4,2007
Application No. 11476453
Filed: June 28,2006
Attorney Docket No. 5351.3028.005

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

This is a decision on the electronic petition, filed November 7,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of November 7,2011 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

NOV 16 2010

OFFICE OF PETITIONS

LERNER GREENBERG STEMER LLP
P O BOX 2480
HOLLYWOOD FL 33022-2480

In re Application of	:	
John Francis CASEY, et al	:	
Application No. 11/476,483	:	DECISION ON PETITION
Filed: June 28, 2006	:	TO WITHDRAW
Attorney Docket No. X-9400	:	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 26, 2010.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The 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 Laurence A. Greenberg on behalf of the attorneys of record associated with Customer No. 24131.

The attorneys associated with Customer No. 24131 have been withdrawn.

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

The correspondence address of record has been changed and the new correspondence address is the address indicated below until otherwise properly notified.

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

/Diane Goodwyn/
Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: JOHN FRANCIS CASEY
9198 SE 125 LOOP
SUMMERFIELD FL 34491

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/476,483	06/28/2006	John Francis Casey	X-9400

CONFIRMATION NO. 3788

POWER OF ATTORNEY NOTICE

24131
LERNER GREENBERG STEMER LLP
P O BOX 2480
HOLLYWOOD, FL 33022-2480

OC000000044469008

Date Mailed: 11/12/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/26/2010.

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

/dcgoodwyn/

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

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: 2005.09.011.WS0	Patent Number: 7,656,882
Filing Date (or 371(b) or (f) Date): June 28, 2006	Issue Date: February 2, 2010
First Named Inventor: Baowei Ji	
Title: METHOD AND SYSTEM FOR PEAK SCHEDULING IN A WIRELESS NETWORK	

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

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

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

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

Signature John T. Mockler	Date August 2, 2010
Name (Print/Typed) John T. Mockler	Registration Number 39,775

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

☐ *Total of _____ forms are submitted.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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DOCKET CLERK
P.O. DRAWER 800889
DALLAS, TX 75380

Mail Date: 08/11/2010

Applicant	: Baowei Ji	: DECISION ON REQUEST FOR
Patent Number	: 7656882	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/476,539	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/28/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **801** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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GREENBLUM & BERNSTEIN, P.L.C.
1950 ROLAND CLARKE PLACE
RESTON VA 20191

MAILED

JUN 06 2011

OFFICE OF PETITIONS

In re Application of
Zeev Aleyraz, et al.
Application No. 11/476,561
Filed: June 29, 2006
Attorney Docket No. **P28299**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the request to withdraw as attorney of record under 37 CFR § 1.36, filed April 14, 2011.

The request is **NOT APPROVED**.

The request cannot be approved because it lacks a forwarding correspondence address of the first named inventor or a properly intervening assignee.

If the forwarding correspondence address is to the assignee, the Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest *that properly became of record under 37 CFR 3.71.* 37 CFR 3.71(c) states:

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

The assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, the statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

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

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-2991.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

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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BRUNDIDGE & STANGER, P.C.
2318 MILL ROAD, SUITE 1020
ALEXANDRIA VA 22314

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NOV 18 2010

OFFICE OF PETITIONS

In re Application of	:	
Shibata et al.	:	
Application Number: 11/476707	:	
Filing or 371(c) Date: 06/29/2006	:	ON PETITION
Attorney Docket Number: KAS-5403	:	

This is a decision on the "Petition to Withdraw Terminal Disclaimer Under 37 CFR § 1.182," filed July 21, 2010, to withdraw the Terminal Disclaimer filed June 16, 2010.

The petition is **granted**.

Applicants file the present petition and requests withdrawal of the Terminal Disclaimer filed June 16, 2010. Applicants provide that the remaining claims in the present application, claims 2-14, are the subject of a nonstatutory double patenting rejection only, and that as provided in the Manual of Patent Examining Procedure ("MPEP"),

> If a "provisional" nonstatutory obviousness-type double patenting (ODP) rejection is the only rejection remaining in the earlier filed of the two pending applications, while the later-filed application is rejectable on other grounds, the examiner should withdraw that rejection and permit the earlier-filed application to issue as a patent without a terminal disclaimer.

Further to this, the MPEP 1490, states:

> While the filing and recordation of an unnecessary terminal disclaimer has been characterized as an "un-happy circumstance" in In re Jentoft, 392 F.2d 633, 157 USPQ 363 (CCPA 1968), there is no statutory prohibition against nullifying or otherwise canceling the effect of a recorded terminal disclaimer which was erroneously filed before the patent issues. Since the terminal disclaimer would not take effect until the patent is granted, and the public has not had the opportunity to rely on the terminal disclaimer, relief from this unhappy circumstance may be available by way of petition or by refiling the application (other than by refiling it as a CPA).

As the Examiner has agreed to the withdrawal of the Terminal Disclaimer, the petition is granted.

The application is being referred to Technology Center Art Unit 3744 for withdrawal of the Terminal Disclaimer, filed June 16, 2010.

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

/DLW/

Derek L. Woods
Attorney
Office of Petitions

Doc Code: PET.PTA.RCAL
Document Description: Request for Recalculation in view of Wyeth

PTO/SB/131 (01-10)
Approved for use through 02/28/2011. OMB 0651-0020
U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH**

Attorney Docket Number: 056203.58002US	Patent Number: 7,664,591
Filing Date (or 371(b) or (f) Date): June 29, 2006	Issue Date: February 16, 2010
First Named Inventor: Shinji NAKAGAWA	
Title: Engine Control Apparatus	

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

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

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

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

Signature	Date August 13, 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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United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON, DC 20044-4300

Mail Date: 08/19/2010

Applicant	: Shinji Nakagawa	: DECISION ON REQUEST FOR
Patent Number	: 7664591	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/476,798	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/29/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **216** 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

CYTYC CORPORATION
Darry Pattinson, Sr. IP Paralegal
250 CAMPUS DRIVE
MARLBOROUGH MA 01752

In re Application of	:	
Joseph A. Sorge	:	
Application No. 11/476,893	:	DECISION ON PETITION
Filed: June 22, 2006	:	
Attorney Docket No. 30.057011 CIP 24	:	

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 and publication fees on or before August 17, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed May 17, 2010. Accordingly, the date of abandonment of this application is August 18, 2010. The Notice of Abandonment was mailed August 30, 2010.

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

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

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

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

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Elizabeth Ruth Vou Vakis
1316 E. Romeo Road
Oakland Twp. MI 48363

MAILED
DEC 14 2011
OFFICE OF PETITIONS

In re Application of :
Elizabeth Ruth Vou Vakis :
Application No. 11/477,117 : DECISION ON PETITION
Filed: 09/14/2006 :
Title: TEND-A-TOT :

This is in response to the communication filed October 11, 2011, which is being treated as a petition under 37 CFR 1.181 (feeless) to withdraw the holding of abandonment in the above identified application.

The petition is **dismissed**.

On August 26, 2010, the Office mailed a final Office action, which set a three-month shortened statutory period to reply, including extensions of time pursuant to 37 CFR 1.136(a). Petitioner did not obtain any extensions of time for response under 37 CFR 1.136(a). Therefore, in the absence of a timely and proper reply to the final Office action, the application became abandoned by statute on November 27, 2010. A Notice of Abandonment was mailed on March 16, 2011.

On October 11, 2011, petitioner filed the present petition. Petitioner asserted that she submitted a timely reply to the final Office action in the form of an amendment on October 29, 2010, and December 6, 2010.

Initially, the Office must determine whether the application is, in fact, abandoned. Namely, the Office must review the present petition to evaluate if petitioner's assertions merely involve the cause of the abandonment. Therefore, where there is no dispute as to whether an application is abandoned because no disagreement exists regarding the sufficiency of the reply or controlling dates, the filing of a petition under 37 CFR 1.181(a) to withdraw the holding of abandonment would be inappropriate. See MPEP 711.03(c)(I). Instead, a petition under 37 CFR 1.137 (accompanied by the appropriate petition fee) is necessary to revive the abandoned application. See MPEP 711.03(c)(I).

The Office acknowledges receipt of petitioner's amendment filed on October 29, 2010, and December 6, 2010.

With regard to the amendment filed on October 29, 2010, the Examiner issued an Advisory Action dated November 19, 2010, advising petitioner that the amendment filed October 29, 2010, failed to place this application in condition for allowance. Thus, the amendment filed October 29, 2010, was not a proper reply to the final Office action.

The Office notes that a response to a final Office action may be entered if it places the application in condition for allowance. However, the admission or refusal to admit an amendment after a final rejection will not operate to relieve the application from its condition. The entry of an amendment after a final rejection is not a matter of right. It is clear from 37 CFR 1.116 that abandonment of an application is risked when an amendment is filed after a final Office action. Abandonment takes place by operation of law for failure to timely submit a proper reply to an Office action, not by the mailing of an Office communication, such an Advisory Action.[1] The mere filing of an amendment in response to a final Office action does not save the application from abandonment. Rather, the filing of a Notice of Appeal, a Request for Continued Examination accompanied by a proper submission, or a continuing application in response to a final rejection guarantees the pendency of the application.

With regard to the amendment filed on December 6, 2010, the Office notes that it was untimely filed because petitioner did not submit a one month extension of time and fee. As stated above, the final Office action of August 26, 2010, set a three-month shortened statutory period to reply, including extensions of time pursuant to 37 CFR 1.136(a). Accordingly, petitioner was required to file a proper and timely reply within the three-month shortened statutory period (on or before November 26, 2010) or within the six month maximum statutory period by submitting a request for an extension of time with an appropriate extension of time fee. As previously stated, petitioner's first reply filed October 29, 2010, was not a proper response to the final Office action. Furthermore, petitioner's second reply in the form of an amendment filed on December 6, 2010, but did not include the necessary request for an extension of time and fee. Therefore, the amendment submitted on December 6, 2010, was untimely. As petitioner did not submit a timely and proper reply to the final Office action, the application was properly held abandoned on November 27, 2010.

The application is currently abandoned due to petitioner's failure to submit a proper and timely response to the final Office action. Under the circumstances of this case, the application did not become abandoned due to a delay in reviewing the amendment or the mailing of the Advisory Action or any other error on the part of the U.S. Patent and Trademark Office. Accordingly, the petition to withdraw the holding of abandonment is **dismissed**.

Petitioner may wish to consider filing a petition under 37 CFR 1.137(b) to revive the application. The provisions of 37 CFR 1.137(b) provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application pursuant to 37 CFR 1.137(b). The appropriate form accompanies this decision.

---

[1] MPEP 711.03(c). See Lorenz v. Finkl, 333 F.2d 885, 889-90, 142 USPQ 26, 299-30 (CCPA 1964); Krahn v. Comm'r, 15 USPQ2d 1823, 1824 (E.D. Va. 1990); In re Application of Fischer, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1984).

A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) The required reply to the outstanding Office action;

(2) The petition fee as set forth in 1.17(m) (currently $930.00);

(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.

As indicated above, petitioner must submit an appropriate reply with any petition under 37 CFR 1.137(b). In a nonprovisional application abandoned for failure to reply to a final action, the reply required for consideration of a petition to revive must be:

(1) A Notice of Appeal and appeal fee;

(2) An amendment under 37 CFR 1.116 that cancels all the rejected claims or otherwise *prima facie* places the application in condition for allowance;

(3) The filing of an RCE (accompanied by a submission that meets the reply requirements of 37 CFR 1.111 and the requisite fee) under 37 CFR 1.114 for utility or plant applications filed on or after June 8, 1995; or

(4) The filing of a continuing application under 37 CFR 1.53(b).

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

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

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

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

Correspondence may also be submitted via the Electronic Filing System of the USPTO.

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

Enclosure: Form PTO/SB/66

UNITED STATES PATENT AND TRADEMARK OFFICE

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LAWRENCE A. AARONSON
LAWRENCE A. AARONSON, P.C.
12850 HIGHWAY 9
SUITE #600 PMB 338
ALPHARETTA GA 30004

MAILED
MAR 23 2011
OFFICE OF PETITIONS

In re Application of
Blair, et al.
Application No. 11/477,124
Filed/Deposited: 28 June, 2006
Attorney Docket No. 20284-0037001

DECISION ON PETITION

This is a decision on the petition filed on 12 January, 2011, pursuant to 37 C.F.R. §1.183 to suspend the rules—specifically, the requirements of the regulations at 37 C.F.R. §1.172.

The petition pursuant to 37 C.F.R. §1.183 is **DISMISSED.**

BACKGROUND

The record indicates:

On 12 January, 2011, Petitioner sought to file a re-issue oath/declaration pursuant to the regulations at 37 C.F.R. §1.172 by the co-inventors herein and was able to submit statements from co-inventor Blair for himself and on behalf of Roger Keenan (Mr. Keenan). However, it does not appear that the signature of Mr. Keenan was obtained at that time.

Contemporaneously on 12 January, 2011, Petitioner sought waiver pursuant to 37 C.F.R. §1.183 of the requirements of 37 C.F.R. §1.172, averring that the non-signing inventor Mr. Keenan refused to sign or could not be found, and in support of that averment, Petitioner submitted a statement and copies of Emails exchanged with Mr. Keenan.

> *Petitioners always are reminded that for the Office to accept transmission by Email of any document (e.g., transmittal description, claims, abstract, drawing(s))\, written acknowledgment of receipt and readability will be required.*

On 14 March, 2011, Petitioner re-advanced his petition for waiver pursuant to 37 C.F.R. §1.183 of the requirements of to 37 C.F.R. §1.172, and noted that the signature of Mr. Keenan had been

obtained on the reissue oath/declaration, and evidenced this averment with a copy of the oath/declaration averred to have been executed by Mr. Keenan.

Thus, Petitioner appears to have undertaken his own inquiry in this matter—i.e., as to the showing that the non-signing inventor previously refused to sign the oath/declaration after having been presented with the papers in question (declaration with any necessary specification: description, claims and drawings); with a statement of the last known address of the non-signing inventor(s)—with diligence in the effort to ascertain the validity of the address set forth as the reasonably believed to be last known/current/valid address.

Further, Petitioner has shown that Mr. Keenan now has signed/joined in the reissue oath/declaration.

ANALYSIS

Suspension of the rules pursuant to 37 C.F.R. §1.183 may be granted in an "extraordinary situation, when justice requires."

Specifically, the regulations at 37 C.F.R. §1.183 set forth the conditions required for their invocation/application:

> **§1.183 Suspension of rules.**
>
> In an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Director or the Director's designee, *sua sponte*, or on petition of the interested party, subject to such other requirements as may be imposed. Any petition under this section must be accompanied by the petition fee set forth in §1.17(f). (Emphasis supplied.)

While it appears that Petitioner sought to demonstrate the extraordinary situation for which Petitioner sought, *inter alia*, suspension of the rules (i.e., the requirements of the regulations at 37 C.F.R. §1.172) pursuant to 37 C.F.R. §1.183, it appears that such extraordinary situation no longer exists.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application. Thus, now if one wishes to know the progress in and/or status of an application or the accuracy of the data therein, one need only look at the file online.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice *and* all others who make representations before the Office must inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

CONCLUSION

Accordingly, the petition considered pursuant to 37 C.F.R §1.183 (for waiver of the regulations at 37 C.F.R §1.172) is **dismissed as moot for joinder**.

The instant application is released to Technology Center/AU 2617 for further processing in due course.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[2]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

---

[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office). See specifically, the regulations at 37 C.F.R. §10.18.

[2] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of Petitioners or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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SCHMEISER, OLSEN & WATTS
22 CENTURY HILL DRIVE
SUITE 302
LATHAM NY 12110

In re Application of	:	
Rick Allen Hamilton, III, et al.	:	
Application No. 11/477,154	:	ON PETITION
Filed: June 28, 2006	:	
Atty Docket No.: AUS920030629US2	:	

This is a decision on the petition filed July 7, 2010, under 37 CFR 1.182 requesting the withdrawal of a previously filed terminal disclaimer.

The petition is granted.

Petitioner asserts that the Terminal Disclaimer filed on March 1, 2010 in this application is moot in view of subsequent action in the prosecution of this application. Accordingly, petitioner requests that the Terminal Disclaimer be withdrawn.

As the examiner has concurred, the request is favorably considered.

The application is being referred to Technology Center Art Unit 2614 for further processing consistent with this decision.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE CA 94085-4040

MAILED

NOV 22 2010

OFFICE OF PETITIONS

In re Patent No. 7,669,069	: DECISION ON
Rusu, et al.	: REQUEST FOR RECONSIDERATION
Application No. 11/477,186	: of PATENT TERM ADJUSTMENT
Issue Date: February 23, 2010	: and
Filed: June 28, 2006	: NOTICE OF INTENT TO ISSUE
Attorney Docket No. 042390.P23441	: CERTIFICATE OF CORRECTION

This is a decision on the petition under 37 CFR 1.705(d), filed August 17, 2010, requesting that the patent term adjustment indicated on the above-identified patent be corrected.

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

On February 23, 2010, the above application issued into US Patent No. 7,669,069 with a patent term adjustment of five hundred eight (508) days. Applicants filed a request for recalculation of the patent term adjustment on March 10, 2010. The request was granted in a decision mailed on April 21, 2010. The decision indicated that the patent term adjustment was seven hundred forty-eight (748) days. The Office calculated a patent term adjustment of 748 days based upon 545 days of "A"' delay (545 days of USPTO delay pursuant to 37 CFR 1.703(a)(1)), plus 240 days of "B" delay, reduced by thirty-seven (37) days of Applicant delay pursuant to 37 CFR 1.704(c)(7).

The request for recalculation of patent term adjustment filed August 17, 2010 is unnecessary, since a similar request filed March 10, 2010 was granted in a decision mailed on April 21, 2010.

The application is being returned to the Certificate of Corrections Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **seven hundred forty-eight (748)** days.

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

Anthony Knight
Director
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

DRAFT CERTIFICATE OF CORRECTION

PATENT : 7,669,069 B2

DATED : **February 23, 2010**

INVENTOR(S) : Rusu 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 508 days.

Delete the phrase "by 508 days" and insert – by 748 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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MS-0161
ALBUQUERQUE NM 87185-0161

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JUL 05 2011
OFFICE OF PETITIONS

In re Application of	:	
John V. Sandusky	:	
Application No. 11/477,248	:	DECISION ON PETITION
Filed: June 29, 2006	:	
Attorney Docket No. SD7857S106103	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 22, 2011, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue fee on or before September 2, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed June 21, 2011. Accordingly, the date of abandonment of this application is March 21, 2011. A Notice of Abandonment was mailed on June 27, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,510, (2) the petition fee of $1,620, and (3) 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

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

Mail Date: 10/07/2010

Applicant	: Andre Werner	: DECISION ON REQUEST FOR
Patent Number	: 7654791	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/477,294	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/29/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **373** 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 1022
MINNEAPOLIS MN 55440-1022

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NOV 29 2011
OFFICE OF PETITIONS

In re Application of	:	
Anand Narayanan Rao	:	
Patent Number: 8,014,833	:	DECISION ON
Issue Date: 09/06/2011	:	APPLICATION FOR
Application No. 11/477295	:	PATENT TERM ADJUSTMENT
Filing or 371(c) Date: 06/28/2006	:	
Attorney Docket Number:	:	
26310-0176001	:	

This is a decision on the petition filed on November 7, 2011, requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand fifty-five (1055) 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 one thousand fifty-five (1055) days is **GRANTED TO THE EXTENT INDICATED**.

Patentee avers that the Office erred in calculating a reduction of two (2) days in connection with the filing of a reply to a non-final Office action, mailed June 26, 2009, three months and two (2) days after the reply was due, on September 26, 2009. Patentee asserts that because the due date for the reply, September 26, 2009, fell over a weekend, the three (3) month date for the reply should be calculated from Monday, September 28, 2009, and the period of reduction should be zero (0) days, and not two (2) days, as intended by 35 U.S.C. 154(b)(2)(C)(ii). Applicant 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 March 31, 2010, and February 14, 2011. This Office mailed a Notice of Allowance and Issue Fee Due on April 27, 2011. Patentees request an additional one hundred thirty-three (133) 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, September 6, 2011. Patentees aver that with the mailing of the Notice of Allowance on September 6, 2011, the Office closed examination on the present application on that date, and no continued examination took place in the 133-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 124

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 408 days, instead of 275 days.

Patentee's arguments have been carefully considered.

Regarding the reduction of two (2) days in connection with the filing of a reply to a non-final Office action, mailed June 26, 2009, three months and two (2) days after the reply was due, on September 26, 2009, Office records confirm that the due date for the reply fell on Saturday, September 26, 2009, and the reply filed on Monday, September 28, 2009 is considered timely. Accordingly, the reduction of two (2) days is in error and has been removed.

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

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,

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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.

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

[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.

gotten further prosecution of the application without having to file a continuing application under 37 CFR 1.53(b).

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

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period begins on June 29, 2009, and ends on March 30, 2010, the day before the RCE, filed March 31, 2010, was filed, and is 275 days. See, 35 U.S.C. 154(b)(1)(B)(i). As such, the patent term adjustment is 922 days, not 1055 days.

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

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

The application is being forwarded to the Certificate of Corrections Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **nine hundred twenty-two (922) days** (adjustments of 943 days less reductions of 21 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 : 8,014,833 B2

DATED : **September 6, 2011**

INVENTOR(S) : Rao

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 920 days.

Delete the phrase "by 920 days" and insert – by 922 days--

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INTELLECTUAL PROPERTY DEPT.
1900 K STREET, NW
SUITE 1200
WASHINGTON DC 20006-1109

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JAN 03 2011

OFFICE OF PETITIONS

In re Application of

Satish, et al.

Application No. 11/477,505

Filed: June 29, 2006

Attorney Docket No. **SYMS060206**

DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), filed November 24, 2010, to revive the above-identified application.

The petition is **granted**.

This application became abandoned for failure to timely file corrected drawings as required by the Notice of Allowability (the "Notice") mailed August 6, 2010. The Notice set forth a three (3) month statutory period for reply. No response was received within the allowable period. Accordingly, this application became abandoned on November 7, 2010. A Notice of Abandonment was mailed on November 19, 2010.

The corrected drawings were received on November 24, 2010.

The application is being directed to the Office of Data Management for further processing.

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

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Terry W. Kramer, Esq.
Kramer & Amado, P.C.
1725 Duke Street, Suite 240
Alexandria, VA 22314

Mail Date: 08/03/2010

Applicant	: Carl Rajsic	: DECISION ON REQUEST FOR
Patent Number	: 7643499	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/477,614	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/30/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **707** 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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JAN 26 2011

OFFICE OF PETITIONS

DICKSTEIN SHAPIRO LLP
1633 BROADWAY
NEW YORK, NY 10019

In re Application of :
Kenji Tsuchiyama :
Application No. 11/477,622 : ON PETITION
Filed: June 30, 2006 :
Attorney Docket No. N0029.1683

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on January 3, 2011 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2618 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the 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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UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/477,714	06/30/2006	Takayuki Saiki	128557	7489

27049 7590 03/02/2011
OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA, VA 22320-4850

EXAMINER
TRAN, ANTHAN

ART UNIT	PAPER NUMBER
2827	

NOTIFICATION DATE	DELIVERY MODE
03/02/2011	ELECTRONIC

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

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

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

OfficeAction27049@oliff.com
jarmstrong@oliff.com

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OLIFF & BERRIDGE, PLC
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ALEXANDRIA VA 22320-4850

In re Application of	**: DECISION ON REQUEST TO**
SAIKI et al.	**: PARTICIPATE IN THE PATENT**
Application No.: 11/477,714	**: PROSECUTION HIGHWAY**
Filed: 30 June 2006	**: PROGRAM AND PETITION**
Attorney Docket No.: 128557	**: TO MAKE SPECIAL UNDER**
For: INTEGRATED CIRCUIT DEVICE	**: 37 CFR 1.102(a)**
AND ELECTRONIC INSTRUMENT	

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) program and the petition under 37 CFR 1.102(a), filed 01 February 2011, to make the above-identified application special.

The request and petition are **GRANTED**.

Discussion

A grantable request to participate in the PPH pilot program and petition to make special require:

1. The U.S. application is
    a. a Paris Convention application which either
        i. validly claims priority under 35 U.S.C. 119(a) and 37 CFR 1.55 to one or more applications filed in the JPO, or
        ii. validly claims priority to a PCT application that contains no priority claims, or
    b. a national stage application under the PCT (an application which entered the national stage in the U.S. from a PCT international application after compliance with 35 U.S.C. 371), which PCT application
        i. validly claims priority to an application filed in the JPO, or
        ii. validly claims priority to a PCT application that contains no priority claims, or
        iii. contains no priority claim, or
    c. a so-called bypass application filed under 35 U.S.C. 111(a) which validly claims benefit under 35 U.S.C. 120 to a PCT application, which PCT application
        i. validly claims priority to an application filed in the JPO, or
        ii. validly claims priority to a PCT application that contains no priority claims, or
        iii. contains no priority claim;
2. Applicant must submit a copy of:

a. The allowable/patentable claim(s) from the JPO application(s);
b. An English translation of the allowable/patentable claim(s) and
c. A statement that the English translation is accurate;

3. Applicant must:
   a. Ensure all the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s) and
   b. Submit a claims correspondence table in English;
4. Examination of the U.S. application has not begun;
5. Applicant must submit:
   a. Documentation of prior office action:
      i. a copy of the office action(s) just prior to the "Decision to Grant a Patent" from each of the JPO application(s) containing the allowable/patentable claim(s) or
      ii. if the allowable/patentable claims(s) are from a "Notification of Reasons for Refusal" then the Notification of Reasons for Refusal or
      iii. if the JPO application is a first action allowance then no office action from the JPO is necessary should be indicated on the request/petition form;
   b. An English language translation of the JPO Office action from (5)(a)(i)-(ii) above
   c. A statement that the English translation is accurate;
6. Applicant must submit:
   a. An IDS listing the documents cited by the JPO examiner in the JPO office action (unless already submitted in this application)
   b. Copies of the documents except U.S. patents or U.S. patent application publications (unless already submitted in this application);

The request to participate in the PPH pilot program and petition comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

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 this application's formality reviews have been completed.

Lee W. Young
TQAS, Technology Center 2800 – Semiconductors
Electrical & Optical Systems & Components

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110508

DATE : October 08, 2010

TO SPE OF : ART UNIT 2824

SUBJECT : Request for Certificate of Correction on Patent No.: 7,782,694

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.

Lamonte Newsome

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:

Approved for entry
Initial: PL
Date: 05/08/2011

5/9/11

RICHARD T. ELMS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

Art Unit 2824

11/477,716

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110508

DATE : October 08, 2010

TO SPE OF : ART UNIT 2824

SUBJECT : Request for Certificate of Correction on Patent No.: 7,782,694

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:
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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:

Approved for entry
Initial: PL
Date: 05/08/2011

/RICHARD ELMS/
Supervisory Patent Examiner, Art Unit 2824

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Decision Date : December 12, 2011

In re Application of :

Takashi Kumagai

DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 11477720

Filed : 30-Jun-2006

Attorney Docket No : 128562

This is an electronic decision on the petition under 37 CFR 1.313(c)(2), filed December 12, 201,1to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

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

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

This application file is being referred to Technology Center AU 2818 for processing of the request for continuing examination under 37 CFR 1.114 .

Office of Petitions

Doc Code: PET.AUTO Document Description: Petition automatically granted by EFS-Web	PTO/SB/140 U.S. Patent and Trademark Office Department of Commerce

Electronic Petition Request	**PETITION TO WITHDRAW AN APPLICATION FROM ISSUE AFTER PAYMENT OF THE ISSUE FEE UNDER 37 CFR 1.313(c)**
Application Number	11477720
Filing Date	30-Jun-2006
First Named Inventor	Takashi Kumagai
Art Unit	2818
Examiner Name	THINH NGUYEN
Attorney Docket Number	128562
Title	INTEGRATED CIRCUIT DEVICE AND ELECTRONIC INSTRUMENT

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

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

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

Petition Fee

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

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

☐ Applicant(s) status remains as SMALL ENTITY.

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

Reason for withdrawal from issue

○ One or more claims are unpatentable

◉ Consideration of a request for continued examination (RCE) (List of Required Documents and Fees)

○ Applicant hereby expressly abandons the instant application (any attorney/agent signing for this reason must have power of attorney pursuant to 37 CFR 1.32(b)).

RCE request,submission, and fee.

☐ I certify, in accordance with 37 CFR 1.4(d)(4) that : The RCE request ,submission, and fee have already been filed in the above-identified application on

☒ Are attached.

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

◉ An attorney or agent registered to practice before the Patent and Trademark Office who has been given power of attorney in this application.

○ An attorney or agent registered to practice before the Patent and Trademark Office, acting in a representative capacity.

○ A sole inventor

○ A joint inventor; I certify that I am authorized to sign this submission on behalf of all of the inventors

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

○ The assignee of record of the entire interest that has properly made itself of record pursuant to 37 CFR 3.71

Signature	/James A. Oliff/
Name	James A. Oliff
Registration Number	27075

Doc Code: PET.RELIEF
Document Description: Certification and Request for Disaster Relief

PTO/SB/425 (03-11)

CERTIFICATION AND REQUEST FOR RELIEF DUE TO EVENTS OF MARCH 11, 2011, IN JAPAN (Page 1 of 2)

Nonprovisional Application Number or Control Number (if applicable):	Patent Number (if applicable):
11/477,725	
First Named Inventor:	Title of Invention:
Toru Marumoto	In-Vehicle Audio Processing Apparatus

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Signature	Date 5/31/11
Name (Print/Typed) Scott W. Brim	Practitioner Registration Number 51,500

***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

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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ALPINE/BHGL
P.O. BOX 10395
CHICAGO IL 60610

MAILED

APR 05 2011

OFFICE OF PETITIONS

In re Application of	:	
Marumoto et al.	:	
Application No. 11/477,725	:	DECISION ON PETITION
Filed: June 28, 2006	:	
Attorney Docket No. 9333/504	:	

This is a decision on the request filed March 31, 2011, seeking relief under the provisions of an announcement by the Under Secretary and Director of the United States Patent and Trademark Office on March 17, 2011, http://www.uspto.gov/patents/announce/japan_relief_2011mar17.pdf, providing relief to inventors and patent owners in areas affected by the earthquake and resulting tsunami of March 11, 2011.

The request for relief is **GRANTED**.

In the above-identified application, an Office action was mailed on January 24, 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 2614 for re-mailing the Office action of January 24, 2011. The period for reply will run from the mailing date of the Office action.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAILED
FEB 17 2012
OFFICE OF PETITIONS

BARNES & THORNBURG LLP
11 SOUTH MERIDIAN
INDIANAPOLIS, IN 46204

In re Application of Shaw et al. :
Application No. 11/477,730 : On Application For
Filing Date: June 29, 2006 : Patent Term Adjustment
Attorney Docket No. 41416-200400 :

This is in response to the "Request for Reconsideration of Patent Term Adjustment under 37 C.F.R. §1.705(d)" filed January 25, 2012, which asserts the correct patent term adjustment to be indicated on the patent is 1,073 days, not 803 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

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

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See 37 CFR 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

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

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, an applicant may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the

amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee.[1]

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

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

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

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BANNER & WITCOFF, LTD.
1100 13th STREET, N.W.
SUITE 1200
WASHINGTON DC 20005-4051

MAILED
NOV 22 2010
OFFICE OF PETITIONS

In re Application of :
Saarela :
Application No. 11/477,810 :
Filed: June 30, 2006 :
Attorney Docket No. 006921.00016 :

ON PETITION

This is a decision on the petition, filed September 28, 2010, under 37 CFR 1.137(a) and, in the alternative, under 37 CFR 1.137(b) to revive the above-identified application.

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

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

This application was held abandoned for failure to reply to the non-final Office action mailed March 16, 2010, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on September 27, 2010.

Petitioner asserts that the Office action dated March 16, 2010 was not received.

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by (1) the required reply, unless previously filed.; (2) the petition fee as set forth in § 1.17(l); (3) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

This petition does not satisfy requirement (3) listed above.

With respect to (3), the showing of record is inadequate to establish unavoidable delay within the meaning of 37 CFR 1.137(a). Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure of mail, telegraph, telefacsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

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 have been "unavoidable". 35 U.S.C. § 133. Decisions on reviving abandoned applications have adopted the reasonably prudent person standard in determining if the delay was unavoidable. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887)(the term 'unavoidable' "is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business"); In re Mattullath, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r Pat. 1913). 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 to revive an application as unavoidably abandoned cannot be granted where a petitioner has failed to meet his or her burden of establishing the cause of the unavoidable delay. Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (N.D. Ind. 1987).

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

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

(1) a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.

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

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

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

The petition fails to satisfy all of the above-stated requirements. Practitioner did not state that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received.

In addition, the first page of the petition states that the Office action was never received by their office and the USPTO never notified their office via email that a new Office Action was awaiting retrieval via the e-Office Action Program. A review of Office databases reveals that applicant has selected paper delivery of Office correspondence for this application. Applicant has never elected to receive electronic correspondence for this application. Thus, the Office wouldn't have sent an email regarding the March 16, 2010 non-final Office action.

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

Turning to the petition under 37 CFR 1.137(b), which was filed in the alternative: Applicant has submitted an amendment in reply to the March 16, 2010 non-final Office action, an acceptable statement of the unintentional nature of the delay in responding to the March 16, 2010 non-final Office action, and the $1,640.00 petition fee.

All of the requirements under 37 CFR 1.137(b) being met, the petition is **granted**.

Regarding fees, pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the $1,110.00 extension of time submitted with the petition on September 28, 2010 was submitted subsequent to the expiration of the maximum period obtainable for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

The $540.00 fee for filing a petition under 37 CFR 1.137(a) will be charged to petitioner's deposit account.

As stated previously, the $1,620.00 fee for filing a petition under 37 CFR 1.137(b) has been charged.

After the mailing of this decision, the application will be returned to Technology Center AU 2617 for consideration of the amendment filed on September 28, 2010.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Patent No. : 7,790,005 B2
Ser. No. : 11/477,811
Inventor(s) : Dawson et al.
Issued : Sep. 7, 2010
Title : ELECTRODE AND METHOD FOR MAKING ELECTRODE
Docket No. : 4851-3
Re: Request for Certificate of Correction

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

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203

MAILED
OCT 14 2011
OFFICE OF PETITIONS

In re Patent No. 7,790,005 :
Issue Date: September 7, 2010 :
Application No. 11/477,811 : ON PETITION
Filed: June 30, 2006 :
Attorney Docket No. 4851-3 :

This is a decision on the petition filed April 26, 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 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.

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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BIRCH STEWART KOLASCH & BIRCH
P.O. BOX 747
FALLS CHURCH, VA 22040-0747

MAILED
AUG 11 2010
OFFICE OF PETITIONS

Applicant: Myllyoja, et al.
Appl. No.: 11/477,921
Filing Date: June 30, 2006
Title: PROCESS FOR THE MANUFACTURE OF DIESEL RANGE HYDRO-CARBONS
Attorney Docket No.: 2835-0153PUS2
Pub. No.: 2007/0006523 A1
Pub. Date: January 11, 2007

This is a decision on the request for corrected of patent application publication under 37 CFR 1.221(b), received on January 5, 2010 for the above-identified application.

The request is dismissed.

Applicant request that the application be republished because the patent application publication contains a material error wherein the incorrect specification was published.

37 CFR 1.221 (b) is applicable "only when the Office makes a material mistake which is apparent from Office records.... Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed **within two months** from the date of the patent application publication. **This period is not extendable.**" A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. [1]

The request for corrected publication, received on January 5, 2010, was not timely filed under 37 CFR 1.221(b).

The Office processed papers (English translation of published Finnish Patent Document, which did not include any indication that it was a translation of another patent document) submitted on September 14, 2006, which were intended to be part of an Information Disclosure Statement, as a substitute specification. Since there were no instructions to enter the papers as an amendment, the Office improperly treated those papers as an amendment to the application.

[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239, Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

Due to the nature of the errors in this publication, the office will *sua sponte* publish a corrected patent application publication. The corrected patent application publication will be published in due course, unless the application is allowed and the patent issues before the application is republished.

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709.

Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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LAWRENCE S. COHEN
LAW OFFICE OF LAWRENCE S. COHEN
10960 WILSHIRE BLVD.
SUITE 1220
LOS ANGELS, CA 90024

MAILED
MAR 28 2011
OFFICE OF PETITIONS

In re Application of	:	
Mitsuo Maeyama	:	DECISION REFUSING STATUS
Application No. 11/477,993	:	UNDER 37 CFR 1.47(b)
Filed: June 28, 2006	:	
Attorney Docket No. 05-108	:	

This is in response to the petition under 37 CFR 1.47(b), filed September 29, 2010.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Any extensions of time will be governed by 37 CFR 1.136(a).

A grantable petition under 37 CFR 1.47(b) requires:

(1) proof that the non-signing inventor or, if deceased, his legal representative, cannot be reached after diligent effort or refuses to sign the oath or declaration;
(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;
(3) the petition fee;
(4) a statement of the last known address of the non-signing inventor or, if deceased, his legal representative.
(5) proof of proprietary interest: and
(6) proof of irreparable damage.

Applicant lack items (5) and (6) set forth above.

As to item (5), Rule 47 applicant has failed to show or provide proof that Unique Stones, Inc. has sufficient proprietary interest in the subject matter to justify the filing of the application (see

MPEP 409.03(f)). Acceptable proof would include a copy of the employment agreement between the non-signing inventor and the Rule 47(b) applicant (company), a copy of an assignment agreement showing that the invention disclosed in the application is assigned to the Rule 47(b) applicant, or a legal memorandum signed by an attorney familiar with the law of the jurisdiction stating that a court of competent jurisdiction would by the weight of authority in that jurisdiction award the title of the invention to the Rule 47(b) applicant. The purported assignment document does not comply with 37 CFR 3.21. See MPEP 302.02.

As to item (6), Rule 47 applicant failed to provide proof of irreparable damage (see MPEP 409.03(g)). A statement by Rule 47 applicant that the filing is necessary to preserve the rights of the parties would be sufficient.

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

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

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

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

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

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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MAILED
MAY 03 2011
OFFICE OF PETITIONS

LAWRENCE S. COHEN, ESQ.
LAW OFFICE OF LAWRENCE S. COHEN
10960 WILSHIRE BLVD.
SUITE 1220
LOS ANGELES, CA 90024

In re Application of	:	
Mitsuo Maeyama et al	:	DECISION GRANTING STATUS
Application No. 11/477,993	:	UNDER 37 CFR 1.47(b)
Filed: June 28, 2006	:	
Attorney Docket No. 05-108	:	

This is a decision on the petition filed, April 7, 2011, requesting reconsideration of a decision mailed March 25, 2011, which refused to accord 37 CFR 1.47(b) status to the above-identified application.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Any extensions of time will be governed by 37 CFR 1.136(a).

A grantable petition under 37 CFR 1.47(b) requires:

(1) proof that the non-signing inventor cannot be reached after diligent effort or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);
(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;
(3) the petition fee;
(4) a statement of the last known address of the non-signing inventor.
(5) proof of proprietary interest: and
(6) proof of irreparable damage.

Applicant lacks item (5) set forth above.

As to item (5), a copy of the assignment agreement showing that the invention disclosed in the application is assigned to the Rule 47(b) applicant has been received. However, a statement under 37 CFR 3.73(b) by the assignee has not been received.

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

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

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

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

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

/dab/
David Bucci
Petitions Examiner
Office of Petitions

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LAWRENCE S. COHEN, ESQ.
LAW OFFICE OF LAWRENCE S. COHEN
10960 WILSHIRE BLVD.
SUITE 1220
LOS ANGELES, CA 90024

MAILED
JUL 14 2011
OFFICE OF PETITIONS

In re Application of	:	
Mitsuo Maeyama	:	DECISION GRANTING STATUS
Application No. 11/477,993	:	UNDER 37 CFR 1.47(b)
Filed: June 28, 2006	:	
Attorney Docket No. 05-108	:	

This is a decision on the petition filed, June 6, 2011 and supplemented on June 13, 2011, requesting reconsideration of a decision mailed May 2, 2011, which refused to accord 37 CFR 1.47(b) status to the above-identified application.

The petition is **GRANTED.**

Petitioner has shown that the legal representative of inventor Mitsuo Maeyama has refused to join in the filing of the above-identified application.

The application and papers have been reviewed and found in compliance with 37 CFR 1.47(b). This application is hereby accorded Rule 1.47(b) status.

As provided in 37 CFR 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This matter is being referred to the Office of Patent Application Processing.

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

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Takatoshi Maeyama
1447-1, Akabane
Chigasaki-shi, Kanagawa-ken 253-0001
Japan

In re Application of
Mitsuo Maeyama
Application No. 11/477,993
Filed: June 28, 2006
For: PROCESS FOR MAKING A MINERAL BATTERY

MAILED
JUL 14 2011
OFFICE OF PETITIONS

Dear Mr. Maeyama:

You are named as the inventor (legal representative) in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(b), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the Irvin Dingle at (571) 272-3210. 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 Certification Division at (571) 272-3150 or 1 (800) 972-6382 (outside the Washington D.C. area).

David Bucci
Petitions Examiner
Office of Petitions

cc: Lawrence S. Cohen, Esq.
Law Office of Lawrence S. Cohen
10960 Wilshire Blvd.
Suite 1220
Los Angeles, CA 90024

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LAW OFFICE OF LAWRENCE S COHEN
10960 WILSHIRE BLVD
SUITE 1220
LOS ANGELES CA 90024

MAILED

AUG 09 2011

OFFICE OF PETITIONS

In re Application of	:	
Maeyama, et al.	:	
Application No. 11/477,993	:	DECISION ON
Filed: June 28, 2006	:	PETITION
Attorney Docket No. 05-108	:	

This is in response to the petition to revive under 37 CFR 1.137(b), filed July 21, 2011.

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

The above application became abandoned for failure to timely file corrected drawings in response to the Notice of Allowability, mailed August 12, 2010. This Notice set a statutory period for reply of three months. No drawings having been received, the application became abandoned on November 13, 2010. The Office mailed a Notice of Abandonment on July 21, 2011.

With the instant petition, applicants paid the petition fee, submitted the required reply in the form of drawings, and made the proper statement of unintentional delay.

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

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

Cliff

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
www.uspto.gov

JEREMY BLACK
P.O. BOX 3307
TUSTIN CA 92781

MAILED

MAR 02 2011

OFFICE OF PETITIONS

In re Application of	:	
Randolph J. Crowson, II	:	
Application No. 11/478,003	:	DECISION ON PETITION
Filed: June 29, 2006	:	
Attorney Docket No. 1002/202	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the final Office action mailed, April 12, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on July 13, 2007. A Notice of Abandonment was mailed October 25, 2007.

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

The above-identified application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving the above-identified application, the above-identified application is again abandoned in favor of continuing application No. 11/974,337, filed October 11, 2007.

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

Joan Olszewski
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 8/4/2010

TO SPE OF : ART UNIT 2834 Leung Quyen P (Spe)

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/478065 Patent No.: 7554223

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Certificates of Correction Branch
703-756-1571 _____

Thank You For Your Assistance

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

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

Comments: _____

/Quyen Leung/ — **SPE**

2834 — **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

MAILED

APR 09 2012

OFFICE OF PETITIONS

In re Application of	:	
Chiang et al.	:	
Application No. 11/478,126	:	DECISION ON PETITION
Filed: June 30, 2006	:	
Attorney Docket No. 06720.0138	:	

This is a decision on the petition, filed March 7, 2012, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the non-final Office action mailed July 26, 2011, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on February 27, 2012.

Petitioner asserts that the non-final Office action dated July 26, 2011 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. The statement should also describe the system used for recording an Office action received at the correspondence address of record and establish that the docketing system was sufficiently reliable;

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 master docket for the firm docket record where the nonreceived Office action would have been entered had it been received must be attached to and referenced in the practitioner's statement. If no master docket exists, the practitioner should so state and provide other evidence such, as but not limited: to the application file jacket, incoming mail log; calendar; reminder system or individual docket record for the application in question

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.

This application is being referred to the Technology Center technical support staff of Art Unit 2617 for re-mailing the non-final Office action of July 26, 2011. The period for reply will run from the mailing date of the Office action.

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

Charlema Grant
Attorney Advisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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PEARL COHEN ZEDEK LATZER, LLP
1500 BROADWAY
12TH FLOOR
NEW YORK NY 10036

MAILED
AUG 25 2011
OFFICE OF PETITIONS

In re Application of	:
John P. Blass	:
Application Number: 11/478,195	: DECISION ON PETITIONS
Filing Date: 06/29/2006	: UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket Number: P-9800-US1	:

This is a decision on the petition, filed on March 16, 2011, which is treated as a petition filed under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), to accept an unintentionally delayed claim under 35 U.S.C. §§365(c), 120, and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The petition is **GRANTED.**

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 365(c), 120, and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed applications, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). Further, the international application claiming the benefit of the prior-filed provisional application must have been filed within twelve months of the filing date of the prior-filed provisional application. All the above requirements having been satisfied, the late claim for benefit of priority under 35 U.S.C. §§ 365(c) and 119(e) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §§365(c) and 120, and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

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

Any questions concerning this matter may be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 1627 for consideration by the examiner of the claim under 35 U.S.C. §§ 365(c), 120, and 119(e) of the prior-filed international and provisional applications.

BLin

Bryan Lin
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
11/478,195	06/29/2006	1627	725	P-9800-US1	29	1

CONFIRMATION NO. 5419

CORRECTED FILING RECEIPT

OC000000049273597

49443
Pearl Cohen Zedek Latzer, LLP
1500 Broadway
12th Floor
New York, NY 10036

Date Mailed: 08/25/2011

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)

John P. Blass, New York, NY;

Power of Attorney: The patent practitioners associated with Customer Number 49443

Domestic Priority data as claimed by applicant

This application is a DIV of 10/838,128 05/03/2004 ABN
and is a CIP of 10/379,816 03/04/2003
which is a CON of 09/529,091 10/20/2000 PAT 6,537,969
which is a 371 of PCT/US98/18120 09/01/1998
which claims benefit of 60/063,165 10/24/1997

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

If Required, Foreign Filing License Granted: 07/25/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/478,195**

Projected Publication Date: Not Applicable

Non-Publication Request: No

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

Title

Method of treating impaired mitochondrial function

Preliminary Class

514

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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OSI PHARMACEUTICALS, INC.
420 SAW MILL RIVER ROAD
ARDSLEY NY 10502

MAILED

SEP 2 0 2010

OFFICE OF PETITIONS

In re Application of	:	
Kuhn-Wache, et al.	:	
Application No. 11/478,217	:	ON REQUEST FOR
Filed: June 29, 2006	:	RECONSIDERATION OF
Attorney Docket Number: PBD-00027-CON	:	PATENT TERM ADJUSTMENT

This is a decision on the petition under 37 CFR 1.705(b), filed May 17, 2010. Applicants believe that they should be accorded additional PTA. 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 ninety-six (196) days** (339 days of PTO delay, reduced by 143 days of Applicant delay).

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

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

Anthony Knight
Director
Office of Petitions

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

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CESARI AND MCKENNA, LLP
88 BLACK FALCON AVENUE
BOSTON, MA 02210

MAILED

DEC 07 2010

OFFICE OF PETITIONS

In re Application of :
Daniel Ting et al :
Application No. 11/478,272 :
Filed: June 29, 2006 :
Attorney Docket No. 112056-0336

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 October 29, 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 2158 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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KELLER LAPUMA WOODARD PC - IV
15154 Pinecrest Drive
Council Bluffs IA 51503

MAILED

OCT 15 2010

OFFICE OF PETITIONS

In re Application of :
Edward K. Y. Jung et al. :
Application No. 11/478,295 : DECISION ON PETITION
Filed: June 28, 2006 :
Attorney Docket No. 0605-002-003-C00001 :

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the final Office action mailed, January 11, 2010, which set a shortened statutory period for reply of three (3) months. A three month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on July 13, 2010. A Notice of Abandonment was mailed on August 4, 2010.

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

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

This application is being referred to Technology Center AU 1631 for appropriate action by the Examiner in the normal course of business on the RCE received August 20, 2010.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

MAILED

AUG 19 2010

OFFICE OF PETITIONS

In re Application of	:	
Martinus Joseph Kok	:	
Application No. 11/478,306	:	DECISION GRANTING PETITION
Filed: June 30, 2006	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 1857.8270000	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed August 18, 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 22, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2886 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/AMW
April M. Wise
Petitions Examiner
Office of Petitions

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

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Royal W. Craig
Ober, Kaler, Grimes & Shriver
Attorneys at Law
120 East Baltimore Street
Baltimore MD 21202-1643

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SEP 27 2010

OFFICE OF PETITIONS

In re Application of	:	
Michel Gosselin	:	
Application No. 11/478,372	:	DECISION ON PETITION
Filed: June 29, 2006	:	
Attorney Docket No. **027092.077015**	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice of Non-Compliant Amendment, mailed October 23, 2009, which set a shortened statutory period for reply of one (1) month or thirty (30) days whichever is longer. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on October 5, 2009.

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

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

This application is being referred to Technology Center AU 1796 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

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Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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Date Mailed: :August 23, 2010
Patent No. : 7,660,365 B1
Ser. No. :11/478445
Issued :February 9, 2010
Inventor(s) Hisao Koga, et al.
Title COMMUNICATIONS DEVICE AND COMMUNICATIONS 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

James E. Ledbetter
Dickinson Wright PLLC
1875 Eye Street, NW, Ste. 1200
Washington, DC 20006

MD/mt

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DICKINSON WRIGHT PLLC
JAMES E LEDBETTER ESQ
INTERNATIONAL SQUARE
1875 EYE STREET NW SUITE 1200
WASHINGTON DC 20006

In re Patent No. 7,660,365 :
Issue Date: February 9, 2010 :
Application No. 11/478,445 : DECISION ON PETITION
Filed: June 30, 2006 :
Attorney Docket No. L8612.06119 :

This is a decision on the petition under 37 CFR 1.323, filed September 23, 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]

The $130 processing fee and $100 fee for the Certificate of Correction have been charged to Deposit Account No. 04-1061, as authorized.

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

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

Cliff Congo
Petitions Attorney
Office of Petitions

[2] MPEP 307.

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JUN 01 2011
OFFICE OF PETITIONS

KOLISCH HARTWELL PC
200 PACIFIC BUILDING
520 SW YAMHILL STREET
PORTLAND OR 97204

In re Application of	:	
Rixen, et al.	:	
Application No. 11/478,518	:	ON PETITION
Filed: June 28, 2006	:	
Attorney Docket No. RME.305CON2	:	

This is a decision on the petition to revive under 37 CFR 1.137(b), filed May 18, 2011.

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

The above-identified application became abandoned for failure to timely file a reply in response to the non-final Office action mailed February 18, 2010. This Office action set a shortened statutory period for reply of three (3) months. No reply having been received, the application became abandoned on May 19, 2010. The Office mailed a Notice of Abandonment on November 12, 2010.

With the instant petition, applicants paid the petition fee, made the proper statement of unintentional delay, and submitted the required reply in the form of continuation application No. 13/110,782, filed May 18, 2011.

The above-identified application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving the above-identified application, the above identified application is again abandoned in favor of the continuation application, no. 13/110,782, filed May 18, 2011.

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Paper No.

DR. REDDY''S LABORATORIES, INC.
200 SOMERSET CORPORATE BLVD
SEVENTH FLOOR
BRIDGEWATER NJ 08807-2862

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OFFICE OF PETITIONS

In re Application of Baruah, De, Khanna, Pillarisetti, Maitra, Alexander, Sreenu, and Dager Application No. 11/478,547 Filed: June 28, 2006 Title: NOVEL BENZYLAMINE DERIVATIVES AND THEIR UTILITY AS CHOLESTEROL ESTER-TRANSFER PROTEIN INHIBITORS	:	DECISION ON PETITIONS PURSUANT TO 37 C.F.R. §§ 1.47(A) AND 1.48(A)

This is in response to the petition pursuant to 37 C.F.R. § 1.47(a), filed on May 10, 2011. This is also a decision on the petition pursuant to 37 C.F.R. § 1.48(a) to add an inventor, filed on April 8, 2010.

The petition pursuant to 37 C.F.R. § 1.47(a) is **DISMISSED.**

The petition pursuant to 37 C.F.R. § 1.48(a) is **DISMISSED.**

The petition pursuant to 37 C.F.R. § 1.47(a):

The Office mailed a final Office action on November 24, 2010, which required, *inter alia*, a "new oath."[1] Applicant filed a Request for Continued Examination along with a two-month extension of time on March 29, 2011. This petition was subsequently filed on May 10, 2011, along with a declaration that has been executed by each of the joint inventors save Mr. De, the petition fee, and the last known address of Mr. De.

A grantable petition pursuant to 37 C.F.R. § 1.47(a) requires:

(1) the petition fee of $200;
(2) a surcharge of either $65 or $130 if the

1 Final Office action of November 24, 2010, page 2.

petition is not filed at the time of filing the application, as set forth in 37 C.F.R. § 1.16(f);

(3) a statement of the last known address of the non-signing inventor;

(4) either

a) proof that a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to the non-signing inventor for review and proof that the non-signing inventor refuses to join in the application or

b) proof that the non-signing inventor cannot be found or reached after diligent effort, and;

(5) a declaration which complies with 37 C.F.R. § 1.63.

Petitioner has met requirements (1), (3), and (5) of 37 C.F.R. § 1.47(a). Requirement (2) is not applicable. Requirement (4) has not been satisfied, as will now be pointed out.

Regarding the fourth requirement above, the record does not support a finding that a complete copy of the application was sent to the last-known residential addresses of the non-signing inventor. Petitioner has indicated that he telephoned the non-signing inventor in January and February of 2011. Petitioner has also made reference to "written correspondence"[2] that was sent to the non-signing inventor in August of 2010, however the petition is silent as to the details of this correspondence. The record does not support a finding that a complete copy of the application was sent to the last known address of the non-signing inventor. Where a refusal of the inventor to sign the application papers is alleged, the Office requires the petitioner to establish that a bona fide attempt was made to mail a complete copy of the application, which entails the specification, claims, drawings, and oath or declaration.[3] As no mention has been made of any presentation of the application to the non-signing joint inventor, the fourth requirement has not been met.

It follows that since it has not been shown that a complete copy of the application was sent to the non-signing inventor, one cannot refuse to sign something which one has not seen. A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with

2 Petition, page 2.
3 See MPEP § 409.03(d).

the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. It is reasonable to require that the inventor be presented with the application papers before a petition under Rule 1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed.[4]

Before filing a renewed petition, Petitioner should mail a complete paper copy of the application to the last known residential address of the non-signing joint inventor, and provide him with a reasonable period of time to respond. Petitioner should note that any statement that pertains to the presentation should be made by one having firsthand knowledge of the event. Statements based on hearsay are not normally accepted.

The petition pursuant to 37 C.F.R. § 1.48(a):

A grantable petition pursuant to 37 C.F.R. § 1.48(a) requires:

(1) A request to correct the inventorship that sets forth the desired inventorship change;

(2) A statement from each person being added as an inventor and from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part;

(3) **An oath or declaration by the actual inventor or inventors as required by § 1.63 or as permitted by §§ 1.42, 1.43 or § 1.47;**

(4) The processing fee set forth in § 1.17(i); and

(5) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see § 3.73(b) of this chapter).

With this petition, Petitioner has included a request to add Shanavas Alikunj as an inventive entity, a statement from this individual that the error in inventorship occurred without deceptive intention on his part, a declaration by the actual inventors which has been executed by each joint inventor save Mr. De, the processing fee set forth in § 1.17(i), and the written consent of the assignee.

4 In re Gray, 115 USPQ 80 (Comm'r Pat. 1956).

The petition pursuant to 37 C.F.R. § 1.48(a) cannot be granted at this time, as the petition pursuant to 37 C.F.R. § 1.47(a) has not been granted. The petition pursuant to 37 C.F.R. § 1.48(a) will be granted when the petition pursuant to 37 C.F.R. § 1.47(a) is granted, and at that time, Office records will be updated to reflect the change in inventorship and a corrected filing receipt will be mailed to Applicant.

Any response to this decision must be submitted within **TWO MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. § 1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petitions pursuant to 37 C.F.R. §§ 1.47(a) and 1.48(a)." This is not a final agency action within the meaning of 5 U.S.C § 704.

Any response to this decision should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail,[5] hand-delivery,[6] or facsimile.[7] Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web.[8]

If responding by mail, Petitioner is advised not to place the undersigned's name on the envelope. Only the information that appears in the footnote should be included - adding anything else to the address will delay the delivery of the response to the undersigned.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225.[9]

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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5 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
6 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
7 (571) 273-8300: please note this is a central facsimile number.
8 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html
9 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any of Petitioner's further action(s).

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No.

DR. REDDY''S LABORATORIES, INC.
200 SOMERSET CORPORATE BLVD
SEVENTH FLOOR
BRIDGEWATER NJ 08807-2862

MAILED
SEP 13 2011
OFFICE OF PETITIONS

In re Application of Baruah, De, Khanna, Pillarisetti, Maitra, Alexander, Sreenu, Dager, and Alikunju Application No. 11/478,547 Filed: June 28, 2006 Title: NOVEL BENZYLAMINE DERIVATIVES AND THEIR UTILITY AS CHOLESTEROL ESTER-TRANSFER PROTEIN INHIBITORS	DECISION ON TWO RENEWED PETITIONS PURSUANT TO 37 C.F.R. §§ 1.47(A) AND 1.48(A)

This is in response to the two concurrently submitted renewed petitions pursuant to 37 C.F.R. §§ 1.47(a) and 1.48(a), each filed on August 29, 2011.

The renewed petition pursuant to 37 C.F.R. § 1.47(a) is **GRANTED.**

The renewed petition pursuant to 37 C.F.R. § 1.48(a) is **GRANTED.**

The Office mailed a final Office action on November 24, 2010, which required, *inter alia*, a "new oath."[1] Applicant filed a Request for Continued Examination along with a two-month extension of time on March 29, 2011. Original petitions pursuant to Rules 1.47(a) and 1.48(a) were subsequently filed on May 10, 2011, along with a declaration that has been executed by each of the joint inventors save Mr. De, the petition fee, and the last known address of Mr. De.

The original petitions pursuant to 37 C.F.R. §§ 1.47(a) and 1.48(a) were dismissed via the mailing of a single decision on May 27, 2011.

A grantable petition pursuant to 37 C.F.R. § 1.47(a) requires:

1 Final Office action of November 24, 2010, page 2.

(1) the petition fee of $200;
(2) a surcharge of either $65 or $130 if the petition is not filed at the time of filing the application, as set forth in 37 C.F.R. § 1.16(f);
(3) a statement of the last known address of the non-signing inventor;
(4) either
  a) proof that a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to the non-signing inventor for review and proof that the non-signing inventor refuses to join in the application or
  b) proof that the non-signing inventor cannot be found or reached after diligent effort, and;
(5) a declaration which complies with 37 C.F.R. § 1.63.

The renewed petition pursuant to Rule 1.47(a):

The decision on May 27, 2011 indicated that requirements (1), (3), and (5) of 37 C.F.R. § 1.47(a) had been satisfied, that requirement (2) is not applicable, and that requirement (4) had not been satisfied.

With this renewed petition, Petitioner has established that on June 30, 2011, a complete copy of the application was sent to the last known residential address of the non-signing inventor, and that no response has been received.[2]

It follows that the fourth requirement of Rule 1.47(a) has been satisfied.

Each of the applicable requirements of 37 C.F.R. § 1.47(a) has been satisfied. This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47, this Office will forward notice of this application's filing to the non-signing inventor at the address given in declaration that was submitted on May 10, 2011. Notice of the filing of this application will also be published in the Official Gazette.

The renewed petition pursuant to Rule 1.48(a):

A grantable petition pursuant to 37 C.F.R. § 1.48(a) requires:

2 Renewed petition, pages 3-4.

(1) A request to correct the inventorship that sets forth the desired inventorship change;

(2) A statement from each person being added as an inventor and from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part;

(3) An oath or declaration by the actual inventor or inventors as required by § 1.63 or as permitted by §§ 1.42, 1.43 or § 1.47;

(4) The processing fee set forth in § 1.17(i); and

(5) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see § 3.73(b) of this chapter).

Each of the five requirements of Rule 1.48(a) has been satisfied.

A corrected filing receipt has been enclosed with this decision.

The Technology Center will be notified of this decision, and jurisdiction over this application is transferred to the Technology Center, so that the application may receive further processing. The Technology Center's support staff will notify the Examiner of this decision, so that the present application can receive further processing in due course.

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

Encl. corrected filing receipt

---

3 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Dibyendu De
11528 Twickham Court
Suwanee, GA 30024

MAILED
SEP 13 2011
OFFICE OF PETITIONS

In re Application of	:	
Baruah, De, Khanna,	:	
Pillarisetti, Maitra,	:	
Alexander, Sreenu, Dager, and	:	
Alikunju	:	
Application No. 11/478,547	:	LETTER
Filed: June 28, 2006	:	
Title: NOVEL BENZYLAMINE	:	
DERIVATIVES AND THEIR UTILITY	:	
AS CHOLESTEROL ESTER-TRANSFER	:	
PROTEIN INHIBITORS	:	

Dear Mr. De:

You are named a joint 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(a), Rules of Practice in Patent Cases. Should a patent be granted on the application, you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 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 attorney 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 the undersigned 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 (571) 272-3150 or 1-800-972-6382 (outside the Washington D.C. area).

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

cc: DR. REDDY''S LABORATORIES, INC.
200 SOMERSET CORPORATE BLVD
SEVENTH FLOOR
BRIDGEWATER NJ 08807-2862

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
11/478,547	06/28/2006	1624	7110	RUS 3.01-023	92	3

CONFIRMATION NO. 7587

CORRECTED FILING RECEIPT

45776
DR. REDDY"S LABORATORIES, INC.
200 SOMERSET CORPORATE BLVD
SEVENTH FLOOR
BRIDGEWATER, NJ 08807-2862

OC000000049714278

Date Mailed: 09/09/2011

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)

Anima Baruah, Hyderabad, INDIA;
Dibyendu De, Suwanee, GA;
Ish Kumar Khanna, Alpharetta, GA;
Sivaram Pillarisetti, Norcross, GA;
Santanu Maitra, Hyderabad, INDIA;
Christopher W. Alexander, Atlanta, GA;
Jennepalli Sreenu, Hyderabad, INDIA;
Indu Dager, Ghaziabad, INDIA;
Shanavas Alikunj, Secunderabad, INDIA;

Power of Attorney: The patent practitioners associated with Customer Number 45776

Domestic Priority data as claimed by applicant

This application is a CIP of 11/320,120 12/28/2005
which claims benefit of 60/640,798 12/31/2004

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

If Required, Foreign Filing License Granted: 07/21/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/478,547**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Novel benzylamine derivatives and their utility as cholesterol ester-transfer protein inhibitors

Preliminary Class

544

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

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

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

NOT GRANTED

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 04/06/12

TO SPE OF : ART UNIT 2465

SUBJECT : Request for Certificate of Correction for Appl. No.: 11478558 Patent No.: 8116326

CofC mailroom date: 03/29/12

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Note: Please check the Specifications

should these changes be made or not?

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: _____

_____

_____

_____

_____

_____ 2465

SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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INTEL CORPORATION
c/o CPA Global
P.O. BOX 52050
MINNEAPOLIS MN 55402

MAILED
MAR 17 2011
OFFICE OF PETITIONS

In re Application of :
Robert L. Vaughn et al. :
Application No. 11/478,570 : DECISION ON PETITION
Filed: June 28, 2006 :
Attorney Docket No. 42P24489 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 11, 2011, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before December 9, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed September 9, 2010. Accordingly, the date of abandonment of this application is December 10, 2010. A Notice of Abandonment was mailed on December 28, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $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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MAILED
NOV 18 2010
OFFICE OF PETITIONS

JACKSON INTELLECTUAL PROPERTY GROUP PLLC
106 STARVALE LANE
SHIPMAN, VA 22971

In re Application of	:	
Yean-Chang Chen, et al.	:	
Application No. 11/478,680	:	ON PETITION
Filed: July 3, 2006	:	
Attorney Docket No.: 7000.257	:	

This is a decision on the petition under 37 CFR 1.182, filed September 9, 2010, to change the order of the names of the inventors. The $400 petition fee has been paid.

The petition is **GRANTED**.

Office records have been corrected to reflect the change in the order of the named inventors. A corrected Filing Receipt, which sets forth the desired order of the named inventors, accompanies this decision on petition.

The application is being referred to the Office of Data Management to await payment of the requisite issue fees.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Attachment

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
11/478,680	07/03/2006	3643	1000	7000.257	5	1

CONFIRMATION NO. 6580

CORRECTED FILING RECEIPT

91395
Jackson Intellectual Property Group PLLC
106 Starvale Lane
Shipman, VA 22971

OC000000044414739

Date Mailed: 11/09/2010

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)

Yean-Chang Chen, Taoyuan, TAIWAN;
Chia-Chieh Chen, Taoyuan, TAIWAN;
Kuan-Yin Chen, Taoyuan, TAIWAN;
Hsueh-Hsuan Liu, Taoyuan, TAIWAN;
Bin Lin, Taoyuan, TAIWAN;
Meng-Chou Lee, Taoyuan, TAIWAN;
Ming-Chao Kuo, Taoyuan, TAIWAN;
Wen-Song Hwang, Taoyuan, TAIWAN;
Ying-Kai Fu, Taoyuan, TAIWAN;
Wuu-Jyh Lin, Taoyuan, TAIWAN;
Lie-Hang Shen, Taoyuan, TAIWAN;

Assignment For Published Patent Application

ATOMIC ENERGY COUNCIL-INSTITUTE OF NUCLEAR ENERGY RESEARCH, TAOYUAN, TAIWAN

Power of Attorney: The patent practitioners associated with Customer Number 91395

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 11/08/2010

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/478,680**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
Title

METHOD OF HORMESIS FOR SEAWEED THROUGH IRRADIATION

Preliminary Class

047

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

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

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

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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CAMPBELL STEPHENSON LLP
11401 CENTURY OAKS TERRACE
BLDG. H, SUITE 250
AUSTIN TX 78758

MAILED

NOV 19 2010

OFFICE OF PETITIONS

In re Application of
Stagg
Application No. 11/478,811
Filed: June 30, 2006
Atty. Dkt. No.: VRT0222US

: DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed September 14, 2010.

The petition is **GRANTED**.

This application became abandoned August 22, 2010 for failure to timely reply to the Notice of Allowance and Issue Fee Due (Notice) mailed May 21, 2010. The Notice set a three (3) month statutory period of time for reply. Notice of Abandonment was mailed September 3, 2010.

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

In accordance with 37 CFR 1.137(b)(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" is required. 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 instant petition has been carefully reviewed and found in compliance with the requirements set forth above.

In view thereof, this application is being forwarded to the Office of Data Management for further processing.

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

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

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 12 2011

OFFICE OF PETITIONS

COOLEY LLP
ATTN: PATENT GROUP
SUITE 1100
777 - 6TH STREET, NW
WASHINGTON, DC 20001

In re Application of Michael Emmett Thompson Application No. 11/478,836 Filed: June 30, 2006 Attorney Docket No. BOBJ-102/00US 304661-2206	: : : : :	DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 11, 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.***

As there is currently no Statement under 37 CFR 3.73(b) of record in the instant application for the current assignee, the Office cannot change the correspondence address to the address on the Request to Withdraw. As such, all future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Currently, there is no outstanding Office action that requires a reply.

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

Joan Olszewski
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FOX ROTHSCHILD LLP
ELAN PHARMA INTERNATIONAL LIMITED
997 LENOX DRIVE BLDG #3
LAWRENCEVILLE NJ 08648

MAILED

DEC 2 0 2010

OFFICE OF PETITIONS

In re Application of	:	
Devane, et al.	:	
Application No. 11/478,891	:	DECISION ON PETITION
Filed: June 30, 2006	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No.	:	
34074.00153/05.1905.US		

This is a decision on the petition under 37 CFR 1.78(a)(3), filed November 16, 2010, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed non-provisional application No. 11/546,378, filed October 12, 2006, set forth in the Amendment submitted with the petition.

The petition is **DISMISSED**.

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

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

The instant application does not meet requirement (1) above.

The reference to add a claim for priority to application No. 11/546,378 is not acceptable because the '378 application, filed October 12, 2006, was filed after the instant application. As set forth above, the reference must be to a prior-filed application.

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

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

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

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

Any questions concerning this matter may be directed to Petitions Attorney Cliff Congo at (571) 272-3207.

Chris Bottorff
Supervisor
Office of 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

FOX ROTHSCHILD LLP
ELAN PHARMA INTERNATIONAL LIMITED
997 LENOX DRIVE BLDG #3
LAWRENCEVILLE NJ 08648

MAILED

MAR 03 2011

OFFICE OF PETITIONS

In re Application of	:	
Devane, et al.	:	
Application No. 11/478,891	:	DECISION ON PETITION
Filed: June 30, 2006	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No.	:	
34074.00153/05.1905.US		

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed January 28, 2011, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed non-provisional application No. 10/683,154, filed October 14, 2003, set forth in the Amendment submitted with the petition.

The petition is **GRANTED**.

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

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

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

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

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

Any inquiries concerning this decision may be directed to Petitions Attorney Cliff Congo at (571) 272-3207. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 1615 for consideration by the examiner of applicants' entitlement to claim benefit of priority under 35 U.S.C. § 120 to the application set forth in the amendment, filed January 28, 2010.

Chris Bottorff
Supervisor
Office of Petitions

Enc: corrected Filing Receipt

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United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/478,891	06/30/2006	1615	1630	34074.00153/05.1905.US/CP	30	2

CONFIRMATION NO. 9136

CORRECTED FILING RECEIPT

61214
Fox Rothschild, LLP
Elan Pharma International Limited
997 Lenox Drive, Bldg. #3
Lawrenceville, NJ 08648

OC000000046280172

Date Mailed: 03/02/2011

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

Applicant(s)

John G. Devane, Athlone, IRELAND;
Paul Stark, Glasson, IRELAND;
Niall M.M. Fanning, Swords, IRELAND;
Gurvinder Singh Rekhi, Suwanee, GA;
Scott A. Jenkins, Downingtown, PA;
Gary Liversidge, West Chester, PA;

Assignment For Published Patent Application

Elan Corporation, plc, Dublin, IRELAND

Power of Attorney: The patent practitioners associated with Customer Number 61214

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/696,117 07/01/2005
and is a CIP of 11/372,857 03/10/2006
which is a CIP of 10/827,689 04/19/2004
which is a CON of 10/354,483 01/30/2003 PAT 6,793,936
which is a CON of 10/331,754 12/30/2002 PAT 6,902,742
which is a CON of 09/850,425 05/07/2001 PAT 6,730,325
which is a CON of 09/566,636 05/08/2000 PAT 6,228,398
which is a CON of PCT/US99/25632 11/01/1999
which claims benefit of 60/106,726 11/02/1998
This application 11/478,891
is a CIP of 10/683,154 10/14/2003 ABN

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

If Required, Foreign Filing License Granted: 07/27/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/478,891**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
Title

Nanoparticulate and controlled release compositions comprising a cephalosporin

Preliminary Class

424

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

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

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

NOT GRANTED

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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/478,907	06/30/2006	Robert Paul Morris	I393/US	9173

52354 7590 12/15/2010
SCENERA RESEARCH, LLC
JENKINS, WILSON, TAYLOR & HUNT, P.A.
5400 Trinity Road
Suite 303
Raleigh, NC 27607

EXAMINER
KRAFT, SHIH-WEI

ART UNIT	PAPER NUMBER
2194	

MAIL DATE	DELIVERY MODE
12/15/2010	PAPER

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

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

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DEC 15 2010

TECHNOLOGY CENTER 2100

John A. Demos
5400 Trinity Road, Ste. 303
Raleigh, North Carolina 27607

In re Application of:
Robert P. MORRIS
Appl. No.: 11/478907
Filed: June 30, 2006
For: METHODS, SYSTEMS, AND COMPUTER PROGRAM PRODUCTS FOR ENABLING CROSS LANGUAGE ACCESS TO AN ADDRESSABLE ENTITY

DECISION ON PETITION UNDER 37 CFR § 1.103(a)

This is a decision on the petition for suspension of prosecution under 37 CFR § 1.103(a) filed on November 1, 2010.

The petition is **GRANTED**.

Pursuant to applicant's request filed on November 1, 2010, action by the Office is suspended on this application under 37 CFR § 1.103(a) for a period of three (3) months from the mailing date of this letter. At the end of this period, applicant is required to notify the examiner and request continuance of prosecution or a further suspension. See MPEP § 709.

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

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

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

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APPLICATION NO.	FILING DATE-	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/478,907	06/30/2006	Robert Paul Morris	1393/US	9173

52354 7590 05/31/2011

SCENERA RESEARCH, LLC
JENKINS, WILSON, TAYLOR & HUNT, P.A.
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Suite 303
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EXAMINER
KRAFT, SHIH-WEI

ART UNIT	PAPER NUMBER
2194	

DATE MAILED: 05/31/2011

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

The request for deferral/suspension of action under 37 CFR 1.103 has been approved.

MAILED

JUN 02 2011

Technology Center 2100

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John A. Demos
5400 Trinity Road, Ste. 303
Raleigh, North Carolina 27607

May 31, 2011

In re Application of:
Robert P. MORRIS
Appl. No.: 11/478907
Filed: June 30, 2006
For: METHODS, SYSTEMS, AND COMPUTER PROGRAM PRODUCTS FOR ENABLING CROSS LANGUAGE ACCESS TO AN ADDRESSABLE ENTITY

DECISION ON PETITION UNDER 37 CFR § 1.103(a)

This is a decision on the petition for suspension of prosecution under 37 CFR § 1.103(a) filed on November 1, 2010.

The petition is **GRANTED**.

Pursuant to applicant's request filed on March 22, 2011, action by the Office is suspended on this application under 37 CFR § 1.103(a) for a period of three (3) months from the mailing date of this letter. At the end of this period, applicant is required to notify the examiner and request continuance of prosecution or a further suspension. See MPEP § 709.

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

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

/Gail Hayes/
Gail Hayes, SPRE/QAS
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Computer Architecture and Software

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/478,907	06/30/2006	Robert Paul Morris	1393/US	9173

52354 7590 10/21/2011
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EXAMINER
KRAFT, SHIH-WEI

ART UNIT	PAPER NUMBER
2194	

MAIL DATE	DELIVERY MODE
10/21/2011	PAPER

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

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John A. Demos
5400 Trinity Road, Ste. 303
Raleigh, North Carolina 27607

October 21, 2011

In re Application of:
Robert P. MORRIS
Appl. No.: 11/478907
Filed: July 30, 2006
For: METHODS, SYSTEMS, AND COMPUTER PROGRAM PRODUCTS FOR ENABLING CROSS LANGUAGE ACCESS TO AN ADDRESSABLE ENTITY

DECISION ON PETITION UNDER 37 CFR § 1.103(a)

This is a decision on the petition for suspension of prosecution under 37 CFR § 1.103(a) filed on September 12, 2011.

The petition is **GRANTED**.

Pursuant to applicant's request filed on September 12, 2011, action by the Office is suspended on this application under 37 CFR § 1.103(a) for a period of three (3) months from the mailing date of this letter. At the end of this period, applicant is required to notify the examiner and request continuance of prosecution or a further suspension. See MPEP § 709.

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

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

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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/478,907	06/30/2006	Robert Paul Morris	I393/US	9173

52354 7590 01/26/2012
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EXAMINER
KRAFT, SHIH-WEI

ART UNIT	PAPER NUMBER
2194	

MAIL DATE	DELIVERY MODE
01/26/2012	PAPER

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

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

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John A. Demos
SCENERA RESEARCH, LLC
5400 Trinity Road
Suite 303
Raleigh, North Carolina 27607

In re Application of: Robert P. MORRIS Appl. No.: 11/478,907 Filed: June 30, 2006 For: METHODS, SYSTEMS, AND COMPUTER PROGRAM PRODUCTS FOR ENABLING CROSS LANGUAGE ACCESS TO AN ADDRESSABLE ENTITY	DECISION ON PETITION UNDER 37 CFR § 1.103(a)

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

The petition is **GRANTED**.

Pursuant to applicant's requests filed on 23 January 2012, action by the Office is suspended on this application under 37 CFR § 1.103(a) for a period of ***three (3) months from the mailing date of this letter***. At the end of this period, applicant is required to notify the examiner and request continuance of prosecution or a further suspension. See MPEP § 709.

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

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3613.

/Vincent N. Trans/
Vincent N. Trans, QAS
Technology Center 2100
Computer Architecture and Software

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/478,908	06/30/2006	Robert Paul Morris	1426/US	9171

52354 7590 09/30/2010
SCENERA RESEARCH, LLC
JENKINS, WILSON, TAYLOR & HUNT, P.A.
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EXAMINER
KRAFT, SHIH-WEI

ART UNIT	PAPER NUMBER
2194	

MAIL DATE	DELIVERY MODE
09/30/2010	PAPER

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

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

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SEP 30 2010

TECHNOLOGY CENTER 2100

John Demos
111 Corning Road
Ste 220
Cary, North Carolina 27518

In re Application of:
Robert P. MORRIS
Appl. No.: 11/478908

Filed: June 30, 2006
For: METHODS, SYSTEMS, AND COMPUTER PROGRAM PRODUCTS FOR ENABLING CROSS LANGUAGE ACCESS TO AN ADDRESSABLE ENTITY IN AN EXECUTION ENVIRONMENT

DECISION ON PETITION
UNDER 37 CFR § 1.103(a)

This is a decision on the petition for suspension of prosecution under 37 CFR § 1.103(a) filed on July 16, 2010.

The petition is **GRANTED**.

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

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

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

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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/478,908	06/30/2006	Robert Paul Morris	I426/US	9171

52354 7590 01/12/2011
SCENERA RESEARCH, LLC
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EXAMINER
KRAFT, SHIH-WEI

ART UNIT	PAPER NUMBER
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MAIL DATE	DELIVERY MODE
01/12/2011	PAPER

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

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

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John Demos
SCENERA RESEARCH, LLC
JENKINS, WILSON, TAYLOR & HUNT, P.A.
5400 TRINITY ROAD
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RALEIGH, NC 27607

January 11, 2011

In re Application of:
Robert P. MORRIS
Appl. No.: 11/478908

Filed: June 30, 2006
For: METHODS, SYSTEMS, AND COMPUTER PROGRAM PRODUCTS FOR ENABLING CROSS LANGUAGE ACCESS TO AN ADDRESSABLE ENTITY IN AN EXECUTION ENVIRONMENT

DECISION ON PETITION
UNDER 37 CFR § 1.103(a)

This is a decision on the petition for suspension of prosecution under 37 CFR § 1.103(a) filed on July 16, 2010.

The petition is **GRANTED**.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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John Demos
SCENERA RESEARCH, LLC
5400 TRINITY ROAD
SUITE 303
RALEIGH, NC 27607

July 7, 2011

In re Application of:
Robert P. MORRIS
Appl. No.: 11/478908

Filed: June 30, 2006
For: METHODS, SYSTEMS, AND COMPUTER PROGRAM PRODUCTS FOR ENABLING CROSS LANGUAGE ACCESS TO AN ADDRESSABLE ENTITY IN AN EXECUTION ENVIRONMENT

DECISION ON PETITION
UNDER 37 CFR § 1.103(a)

This is a decision on the petition for suspension of prosecution under 37 CFR § 1.103(a) filed on April 15, 2011.

The petition is **GRANTED**.

Pursuant to applicant's request filed on April 15, 2011, action by the Office is suspended on this application under 37 CFR § 1.103(a) for a period of ***three (3) months from the mailing date of this letter***. At the end of this period, applicant is required to notify the examiner and request continuance of prosecution or a further suspension. See MPEP § 709.

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/478,908	06/30/2006	Robert Paul Morris	1426/US	9171

52354 7590 10/21/2011
SCENERA RESEARCH, LLC
JENKINS, WILSON, TAYLOR & HUNT, P.A.
5400 Trinity Road
Suite 303
Raleigh, NC 27607

EXAMINER
KRAFT, SHIH-WEI

ART UNIT	PAPER NUMBER
2194	

MAIL DATE	DELIVERY MODE
10/21/2011	PAPER

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

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

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John Demos
SCENERA RESEARCH, LLC
5400 TRINITY ROAD
SUITE 303
RALEIGH, NC 27607

October 20, 2011

In re Application of:
Robert P. MORRIS
Appl. No.: 11/478908

Filed: June 30, 2006
For: METHODS, SYSTEMS, AND COMPUTER PROGRAM PRODUCTS FOR ENABLING CROSS LANGUAGE ACCESS TO AN ADDRESSABLE ENTITY IN AN EXECUTION ENVIRONMENT

DECISION ON PETITION
UNDER 37 CFR § 1.103(a)

This is a decision on the petition for suspension of prosecution under 37 CFR § 1.103(a) filed on September 21, 2011.

The petition is **GRANTED**.

Pursuant to applicant's request filed on September 21, 2011, action by the Office is suspended on this application under 37 CFR § 1.103(a) for a period of ***three (3) months from the mailing date of this letter***. At the end of this period, applicant is required to notify the examiner and request continuance of prosecution or a further suspension. See MPEP § 709.

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

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

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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/478,908	06/30/2006	Robert Paul Morris	1426/US	9171

52354 7590 12/16/2011

SCENERA RESEARCH, LLC
JENKINS, WILSON, TAYLOR & HUNT, P.A.
5400 Trinity Road
Suite 303
Raleigh, NC 27607

EXAMINER
KRAFT, SHIH-WEI

ART UNIT	PAPER NUMBER
2194	

DATE MAILED: 12/16/2011

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

The request for deferral/suspension of action under 37 CFR 1.103 has been approved.

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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December 16, 2011

John Demos
SCENERA RESEARCH, LLC
5400 TRINITY ROAD
SUITE 303
RALEIGH, NC 27607

In re Application of:
Robert P. MORRIS
Appl. No.: 11/478908

Filed: June 30, 2006
For: METHODS, SYSTEMS, AND COMPUTER PROGRAM PRODUCTS FOR ENABLING CROSS LANGUAGE ACCESS TO AN ADDRESSABLE ENTITY IN AN EXECUTION ENVIRONMENT

DECISION ON PETITION
UNDER 37 CFR § 1.103(a)

This is a decision on the fourth petition for suspension of prosecution under 37 CFR § 1.103(a) filed on October 11, 2011.

The petition is **GRANTED three (3) months from the mailing date of this letter**.

Pursuant to applicant's request filed on October 11, 2011, action by the Office is suspended on this application under 37 CFR § 1.103(a) for a period of ***three (3) months from the mailing date of this letter***. At the end of this period, applicant is required to notify the examiner and request continuance of prosecution or a further suspension. See MPEP § 709.

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

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

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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/478,908	06/30/2006	Robert Paul Morris	1426/US	9171

52354 7590 03/22/2012
SCENERA RESEARCH, LLC
JENKINS, WILSON, TAYLOR & HUNT, P.A.
5400 Trinity Road
Suite 303
Raleigh, NC 27607

EXAMINER
KRAFT, SHIH-WEI

ART UNIT	PAPER NUMBER
2194	

MAIL DATE	DELIVERY MODE
03/22/2012	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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John Demos
SCENERA RESEARCH, LLC
5400 Trinity Road
Suite 303
Raleigh, North Carolina 27607

In re Application of:
Robert P. MORRIS
Appl. No.: 11/478,908
Filed: June 30, 2006
For: METHODS, SYSTEMS, AND COMPUTER PROGRAM PRODUCTS FOR USING A STRUCTURED DATA STORAGE SYSTEM TO PROVIDE ACCESS TO ADDRESSABLE ENTITIES IN VIRTUAL ADDRESS SPACE

DECISION ON PETITION UNDER 37 CFR § 1.103(a)

This is a decision on the petition for suspension of prosecution under 37 CFR § 1.103(a) filed on 21 March 2012.

The petition is **GRANTED**.

Pursuant to applicant's request filed on 21 March 2012, action by the Office is suspended on this application under 37 CFR § 1.103(a) for a period of three (3) months from the mailing date of this letter. At the end of this period, applicant is required to notify the examiner and request continuance of prosecution or a further suspension. See MPEP § 709.

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

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3613.

/Vincent N. Trans/
Vincent N. Trans, QAS
Technology Center 2100
Computer Architecture and Software

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Zilka-Kotab, PC
P.O. BOX 721120
SAN JOSE CA 95172-1120

MAILED

MAR 22 2011

OFFICE OF PETITIONS

In re Application of :

GORDON, Bryson et al. :
Application No. 11/478,930 :
Filed: June 30, 2006 :
Attorney Docket No. **NAI1P140A/01.131.02** :

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 24, 2011.

The request is **NOT APPROVED**.

The Office has revised its change in procedure for request to withdraw from representation applies to requests filed on or after May 12, 2008.

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

Accordingly, the request to withdraw from record cannot be approved because the request to change the correspondence address is not that of: (1) the first named inventor; or (2) an assignee of the entire interest under 37 C.F.R 3.71 who has properly intervened.

If an assignee has intervened in this application, then a Statement under 37 CFR 3.73(b) or a copy of the actual assignment must be submitted with a renewed request.

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

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

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions

cc: **MCAFEE, INC**
C/O LOUIS RILEY
5000 HEADQUARTERS DRIVE
PLANO, TX 75024

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ZILKA-KOTAB, PC
P.O. BOX 721120
SAN JOSE CA 95172-1120

MAILED

APR 19 2011

OFFICE OF PETITIONS

In re Application of	:	
GORDON, Bryson et al.	:	
Application No. 11/478,930	:	DECISION ON PETITION
Filed: June 30, 2006	:	TO WITHDRAW
Attorney Docket No. **01.131.02 (920-0086US)**	:	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 28, 2011.

The request is moot because a revocation of power of attorney has been previously filed.

A review of the file record indicates that the power of attorney to Zilka-Kotab, PC has been revoked by the assignee of the patent application on March 28, 2011. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions

cc: **MCAFEE-WONG CABELLO LUTSCH**
RUTHERFORD & BRUCCULERI LLP
20333 TOMBALL PARKWAY, 6TH FLOOR
HOUSTON TX 77070

UNITED STATES PATENT AND TRADEMARK OFFICE

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MCAFEE-WONG CABELLO LUTSCH RUTHERFORD & BRUCCULERI LLP
20333 TOMBALL PARKWAY, 6TH FLOOR
HOUSTON TX 77070

MAILED
AUG 23 2011
OFFICE OF PETITIONS

In re Patent No. 7,996,902
Issued: August 9, 2011
Application No. 11/478,930
Filed: June 30, 2006
Attorney Docket No. 01.131.02
(920-0086US)

: LETTER REGARDING
: PATENT TERM ADJUSTMENT

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT" filed on August 9, 2011, requesting that the patent term adjustment indicated on the above-identified patent be corrected from 608 days to 715 days.

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

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

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

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, begins on January 26, 2009 and ends on May 12, 2009, with the mailing of the non-Final Office Action, which is not included in the B delay. *See* 35 U.S.C. § 154(b)(1)(B)(ii). Thus, B delay is 221 days. As such, the patent term adjustment is 608 (480 "A delay" days + 221 "B delay" days - 93 Applicant delay days) days, not 715 days.

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

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED
SEP 10 2010
OFFICE OF PETITIONS

In re Application of	:	
Curt BINNER.	:	
Application No. 11/478,944	:	DECISION GRANTING PETITION
Filed: June 30, 2006	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **PPC5073USCIP1**	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed September 2, 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 March 19, 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 3721 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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UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/478,959	06/28/2006	Andrea Yuki Satoh	MSU-10277	6394

7590 04/07/2011
MEDLEN & CARROLL, LLP
101 HOWARD STREET
SUITE 350
SAN FRANCISCO, CA 94105

EXAMINER
SAKELARIS, SALLY A

ART UNIT	PAPER NUMBER
1797	

MAIL DATE	DELIVERY MODE
04/07/2011	PAPER

ACKNOWLEDGEMENT OF REQUEST

Notice of Allowance/Allowability Mailed

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

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

FORM PTOM327-5 (Rev. 02/08)

UNITED STATES PATENT AND TRADEMARK OFFICE

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

April 7, 2011

MEDLEN & CARROLL, LLP
101 HOWARD STREET
SUITE 350
SAN FRANCISCO CA 94105

Re Application of	
SATOH, ANDREA YUKI, Et. Al	: **DECISION ON PETITION**
Application No: **11/478959**	: **ACCEPTANCE OF COLOR**
Filed: **06/28/2006**	: **DRAWINGS**
Attorney Docket No: **MSU-10277**	:

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) September 18, 2009.

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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MAILED

AUG 3 1 2010

OFFICE OF PETITIONS

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

In re Patent No. 7,668,868	:
King et al.	: DECISION ON REQUEST FOR
Issue Date: February 23, 2010	: RECONSIDERATION OF
Application No. 11/478,997	: PATENT TERM ADJUSTMENT
Filed: June 29, 2006	: AND NOTICE OF INTENT
Attorney Docket No. 07844-	: TO ISSUE CERTIFICATE OF
557002/P512 D1	: CORRECTION
Title: GROUP FILE DELIVERY	:
INCLUDING USER-DEFINED METADATA	:

This is a decision on the petition filed on May 20, 2010, which is being treated as a petition under 37 CFR 1.181 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. The petition was filed within two months of a decision by the Office mailed on April 20, 2010 dismissing applicants' request for reconsideration of PTA.

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 eight (508)** days is **GRANTED.**

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by five hundred eight (508) days.

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

Anthony Knight
Director
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,668,868 B1

DATED : February 23, 2010 **DRAFT**

INVENTOR(S) : King 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 446 days

Delete the phrase "by 446 days" and insert – by 508 days--

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: ____

DATE : 4/7/2011

TO SPE OF : ART UNIT : 2191

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/479002 Patent No.: 7818730 B1

CofC mailroom date: 3/28/2011

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Virginia Tolbert
Certificates of Correction Branch
571-272-0460

Thank You For Your Assistance

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

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

Comments: _____

SPE

2191
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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INTEL CORPORATION
c/o CPA Global
PO BOX 52050
MINNEAPOLIS MN 55402

MAILED
DEC 23 2010
OFFICE OF PETITIONS

In re Application of	:	
Chakrapani, et al.	:	
Application No. 11/479,105	:	ON PETITION
Filed: June 30, 2006	:	
Attorney Docket No. P22621	:	

This is a decision on the petition under 37 CFR 1.137(a), filed November 30, 2010, requesting that the above-identified abandoned application be revived on the basis of unavoidable delay.

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 under 37 CFR 1.136(a) are permitted. No additional petition fee is required for a renewed petition under 37 CFR 1.137(a).

The above-identified application became abandoned for failure to timely file pay the issue fee in response to the Notice of Allowance mailed July 19, 2010. This Notice set a statutory period for reply of three (3) months. No issue fee having been received, the application became abandoned on October 20, 2010. The Office mailed a Notice of Abandonment on November 9, 2010.

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the

filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c). Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[1]

Moreover, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable."[2]

Petitioner states that the abandonment was due to a failure to properly docket the due date for the payment of the issue fee.

It is true that a delay resulting from an error (e.g., a docketing error) on the part of an employee in the performance of a clerical function may provide the basis for a showing of "unavoidable" delay, provided it is shown that: (1) the error was the cause of the delay at issue; (2) there was in place a business routine for performing the clerical function that could reasonably be relied upon to avoid errors in its performance; and (3) the employee was sufficiently trained and experienced with regard to the function and routine for its performance that reliance upon such employee represented the due exercise of due care. See MPEP 711.03(c)(III)(C)(2).

---

[1] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913).

[2] Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

Here, petitioner has not shown (2) and (3) above. Petitioner has not provided any showing of the business routine in place for docketing due dates. Furthermore, petitioner has not provided any information regarding the employee in question who committed the docketing error. Petitioner has not identified the employee or provided any details regarding his or her training and experience, such that reliance on that employee represented the due exercise of due care.

While the showing of record is not sufficient to establish to the satisfaction of the Commissioner that the delay was unavoidable, petitioner is not precluded from obtaining relief by filing a petition pursuant to **37 CFR 1.137(b)** on the basis of **unintentional** delay. A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by (1) The reply required to the outstanding Office action or notice, unless previously filed; (2) The petition fee as set forth in 37 CFR 1.17(m); 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 this paragraph was unintentional.

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

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

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

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAR 10 2011

OFFICE OF PETITIONS

INTEL CORPORATION
C/O CPA GLOBAL
PO BOX 52050
MINNEAPOLIS MN 55402

In re Application of	:	
Chakrapani, et al.	:	
Application No. 11/479,105	:	ON PETITION
Filed: June 30, 2006	:	
Attorney Docket No. P22621	:	

This is a decision on the renewed petition under 37 CFR 1.137(a), filed February 15, 2011, requesting that the above-identified abandoned application be revived on the basis of unavoidable delay.

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 under 37 CFR 1.136(a) are permitted. No additional petition fee is required for a renewed petition under 37 CFR 1.137(a).

The above-identified application became abandoned for failure to timely file pay the issue fee in response to the Notice of Allowance mailed July 19, 2010. This Notice set a statutory period for reply of three (3) months. No issue fee having been received, the application became abandoned on October 20, 2010. The Office mailed a Notice of Abandonment on November 9, 2010. Applicants filed a petition to revive under 37 CFR 1.137(a) on November 30, 2010, stating that failure to properly docket the due date for the issue fee was the cause of the abandonment. However, the petition was dismissed in a decision mailed on December 23, 2010.

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c). Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[1]

Moreover, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable."[2]

With the instant renewed petition, petitioner no longer states that the abandonment was due to an unavoidable docketing error, but rather that the Notice of Allowance was never received. In support thereof, petitioner has included a copy of in incoming mail log, showing all correspondence received from the dates of July 12, 2010 to July 23, 2010.

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[1] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913).

[2] Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

To establish non receipt of an office action, a practitioner must:

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

Here, petitioner has not submitted a copy of a master docket report showing all of his replies docketed for a due date of October 19, 2010. If no master docket report, petitioner should so state for the record, and submit other evidence as set forth above.

While the showing of record is not sufficient to establish to the satisfaction of the Commissioner that the delay was unavoidable, petitioner is not precluded from obtaining relief by filing a petition pursuant to 37 CFR 1.137(b) on the basis of unintentional delay. A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by (1) The reply required to the outstanding Office action or notice, unless previously filed; (2) The petition fee as set forth in 37 CFR 1.17(m); 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 this paragraph was unintentional.

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

---

[3] MPEP 711.03(c)(II) (emphasis added).

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

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

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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INTEL CORPORATION
C/O CPA GLOBAL
PO BOX 52050
MINNEAPOLIS ·MN 55402

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APR 26 2011
OFFICE OF PETITIONS

In re Application of	:	
Chakrapani, et al.	:	
Application No. 11/479,105	:	ON PETITION
Filed: June 30, 2006	:	
Attorney Docket No. P22621	:	

This is a decision on the petition to revive an unintentionally abandoned application under 37 CFR 1.137(b), filed March 29, 2011.

The petition under 37 CFR 1.137(b) is **GRANTED.**

The above-identified application became abandoned for failure to timely file pay the issue fee in response to the Notice of Allowance mailed July 19, 2010. This Notice set a statutory period for reply of three (3) months. No issue fee having been received, the application became abandoned on October 20, 2010. The Office mailed a Notice of Abandonment on November 9, 2010. Applicants filed a petition to revive under 37 CFR 1.137(a) on November 30, 2010, stating that failure to properly docket the due date for the issue fee was the cause of the abandonment. However, the petition was dismissed in a decision mailed on December 23, 2010. Applicants filed a petition to revive under 37 CFR 1.137(a) on February 15, 2011, which was dismissed in a decision mailed on March 10, 2011.

With the instant petition, petitioner paid the petition fee and made the proper statement of unintentional delay. The required reply in the form of the issue fee was previously paid on February 15, 2011.

The application is being forwarded to the Office of Data Management for processing into a patent.

Telephone inquiries concerning this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW CA 94041

MAILED

AUG 1 6 2010

OFFICE OF PETITIONS

In re Application of	:	
Dennis G. Christensen	:	
Application No. 11/479,113	:	DECISION ON PETITION
Filed: June 30, 2006	:	TO WITHDRAW
Attorney Docket No. **24858-11630**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed July 8, 2010.

The request is **NOT APPROVED**.

A review of the file record indicates that Jie Zhang or any attorneys/agents associated with Customer Number 00758 does not have power of attorney or was ever given power of attorney in the above-identified application. Accordingly, the request to withdraw under 37 CFR § 1.36(b) is not applicable.

According to our records the Customer Number has been listed as the Correspondence Information in the "Declaration for Utility or Design Patent Application (37 CFR 1.63)" filed June 30, 2006. Therefore, since a power of attorney was never given in this application the request cannot be approved.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Paper No.

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AUG 23 2011

OFFICE OF PETITIONS

FISH & RICHARDSON P.C.
P.O. Box 1022
MINNEAPOLIS MN 55440-1022

In re Patent No. 7,953,295	:	
Vincent	:	DECISION ON
Issue Date: May 31, 2011	:	REQUEST FOR
Application No. 11/479,115	:	RECONSIDERATION OF
Filed: June 29, 2006	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 16113-0067003	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR § 1.705(d)," filed July 29, 2011, requesting that the patent term adjustment determination for the above-identified patent be changed from one thousand and thirty (1030) days to one thousand, one hundred and sixty-one (1161) days.

The request for reconsideration of patent term adjustment is **DISMISSED**.

BACKGROUND

On May 31, 2011, the above-identified application matured into US Patent No.. 7,953,295 with a patent term adjustment of 1030 days. This request for reconsideration of patent term adjustment was timely filed within two months of the issue date of the patent. See 37 C.F.R. § 1.705(d).

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Patentee maintains entitlement to a period of adjustment due to the Three Year Delay by the Office, pursuant to 37 CFR § 1.703(b), of 649 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 C.F.R. § 1.702(b) provides that:

> Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application, but not including:
> (1) Any time consumed by continued examination of the application under 35 U.S.C. 132(b);
> (2) Any time consumed by an interference proceeding under 35 U.S.C. 135(a);
> (3) Any time consumed by the imposition of a secrecy order under 35 U.S.C. 181;
> (4) Any time consumed by review by the Board of Patent Appeals and Interferences or a Federal court; or
> (5) Any delay in the processing of the application by the Office that was requested by the applicant.

OPINION

The sole item that is in dispute is the effect of the RCE-cutoff on B-delay: at issue is the period not included in the B-delay for "any time consumed by continued examination of the application requested by the applicant under section 132(b)."

See U.S.C. 154(b)(1)(B)(i). **The Office maintains that the entire period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period.** As such, the over three-year period begins on June 30, 2009 and ends on November 29, 2010, the day before the first RCE was filed, which amounts to 518 (not 649) days.

Patentee argues that the 130-day[1] period between the mailing of the notice of allowance on January 21, 2011 and the issuance of the patent on May 31, 2011 should be included in the period of B-delay, as this time "was not 'consumed by continued examination of the application."[2] As such, Patentee argues that the over three-year period begins on June 30, 2009 (the day after the three-year anniversary of the filing of the application), pauses on November 29, 2010 (the day before the filing of the first RCE), restarts on January 21, 2011 with the mailing of the notice of allowance, and ends on May 31, 2011 with the issuance of the patent.

Patentee's argument has been considered, but not found persuasive. Counting the period of time excluded from the "B delay" for the filing of a request for continued examination under 35 U.S.C. 132(b), from the date on which the request for continued examination is filed to the date the patent is issued is proper. Patentee does not dispute that time consumed by continued examination of an application under 35 U.S.C. 132(b) is properly excluded and that the calculation of the excluded 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,

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[1] Patentee has miscalculated this period to constitute 131 days.
[2] Petition, page 3.

the excluded period begins with the filing of the request for continued examination and ends with the issuance of the patent.

Patentee's argument that the period of time after the issuance of a notice of allowance on a request for continued examination is not "any time consumed by continued examination"[3] requested by the applicant under section 132(b) within the meaning of 35 U.S.C. 154(b)(1)(B)(i) is not availing. This limitation is not supported by the statutory language. Garcia v. United States, 469 U.S. 70, 75 (1984) ("only the most extraordinary showing of contrary intentions from [legislative history] would justify a limitation on the 'plain meaning' of the statutory language"). BP Am. Prod. Co. v. Burton, 549 U.S. 84, 91 (2006) ("Unless otherwise defined, statutory terms are generally interpreted in accordance with their ordinary meaning"). The statute provides for a guarantee of no more than 3-year application pendency, by providing for an adjustment in the patent term:

First, "Subject to the limitations of paragraph (2)," means that the limitations of paragraph 2 apply to this paragraph's adjustment of patent term. That is, the day-to-day extension of patent term for pendency beyond the 3 year period is restricted as follows: 1) "B delay" cannot accrue for days of "A delay" that overlap, 2) the patent term cannot be extended beyond disclaimed term, and 3) the period of adjustment, including accrued "B delay," will be reduced for applicant delay.

Second, "if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to 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."

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[3] Id.

Third, "not including- (i) any time consumed by continued examination of the application requested by the applicant under section 132(b); (ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or (iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), meaning that the three-year period does not include "any time consumed by" or "any delay in processing," as specified in clauses (i)-(iii). This language correlates to 35 U.S.C. 154(b)(1)(A) which likewise provides the basis for determining the period given the Office to take the specified actions before an adjustment will accrue for "A delay" (e.g., extended for 1 day after the day after the period specified in clauses (i)-(iv)).

Furthermore, these clauses are interpreted using their ordinary meanings. Nonetheless, the context of the legislation should be considered. As stated in Wyeth v. Dudas, No. 07-1492, 580 F.Supp.2d 138 (D.D.C., September 30, 2008), because the clock for calculating the 20-year patent term begins to run on the filing date, and not on the day the patent is actually granted, some of the effective term of a patent is consumed by the time it takes to prosecute the application. To mitigate this effect, the statute, *inter alia*, grants adjustments of patent term whenever the patent prosecution takes more than three years, regardless of the reason. The time consumed by prosecution of the application includes every day the application is pending before the Office from the actual filing date of the application in the United States until the date of issuance of the patent. The time it takes to prosecute the application ends not with the mailing of the notice of allowance, but with the issuance of the patent.

Thus, not including "any time consumed by" means not including any days used to prosecute the application as specified in clauses (i)-(ii)[4]. Clause (i) specifies "any time consumed by

[4] Clause (iii) provides for not including (iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued. It is noted that paragraph (3)(C) allows with an adequate showing by applicant for reinstatement of no more than 3 months of

continued examination of the application requested by the applicant under section 132(b)." Clause (ii) specifies "any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court." "Time" in the context of this legislation throughout refers to days. "Consumed by" means used by or used in the course of. *Websters Collegiate Dictionary*, (11th ed.). The "any" signifies that the days consumed by are "any" of the days in the pendency of the application, and not just days that occur after the application has been pending for 3 years. As such, "any time consumed by" refers to any days used in the course of 1) continued examination of the application under section 132(b) (the filing of a request for continued examination), 2) interference proceedings, 3) secrecy orders, and 4) appellate review. Thus, that 3-year period given to the Office to issue a patent before an adjustment will accrue for "B delay" does not include any days used in the course of or any time consumed by clauses (i)-(ii), including any time consumed by the filing of a request for continued examination.

Fourth, "the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued" meaning that the consequence of this failure is that after "the end of that 3-year period" an additional 1 day of patent term will accrue for each day that the application is pending until the day the patent is issued.

The "time consumed by" or used in the course of the continued examination of the application requested by the applicant under section 132(b) does not end until issuance of the patent. 35 U.S.C. 132(b) was enacted under the same title, the "American Inventors Protection Act of 1999," as 35 U.S.C. 154(b). Section 4403 of the AIPA amended 35 U.S.C. § 132 to provide, at the request of the applicant, for continued examination of an application for a fee (request for continued examination or RCE practice), without requiring the applicant to file a continuing application under 37 CFR 1.53(b) or a continued prosecution application (CPA) under 37 CFR 1.53(d). Thus, clause (i) is different from clause (ii) in that clause (i) refers to an examination process whereas clause (ii) refers to time consumed

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the patent term reduced for applicant delay in taking in excess of three months to respond.

by proceedings (interferences, secrecy orders and appeals) in an application.

By nature, the time used in the course of the examination process continues to issuance of the patent. The examination process involves examining the application to ascertain whether it appears that the applicant is entitled to a patent under the law. See 35 U.S.C. 131 ("[t]he Director shall cause an examination to be made of the application and the alleged new invention; and if on such examination it appears that the applicant is entitled to a patent under the law, the Director shall issue a patent therefor"). If on examination it appears that the applicant is entitled to a patent, the USPTO issues a notice of allowance. See 35 U.S.C. 151 ("[i]f it appears that applicant is entitled to a patent under the law, a written notice of allowance of the application shall be given or mailed to the applicant"). If on examination it appears that the applicant is not entitled to a patent, the USPTO issues a notice (an Office action) stating the applicable rejection, objection, or other requirement, with the reasons therefor. See 35 U.S.C. 132 ("[w]henever, on examination, any claim for a patent is rejected, or any objection or requirement made, the Director shall notify the applicant thereof, stating the reasons for such rejection, or objection or requirement, together with such information and references as may be useful in judging of the propriety of continuing the prosecution of his application"). Neither the issuance of a notice of allowance nor the insurance of an Office action terminates the examination process. If after the issuance of an Office action under 35 U.S.C. 132 it subsequently appears that the applicant is entitled to a patent (e.g., in response to an argument or amendment by the applicant), the USPTO will issue a notice of allowance. Conversely, if after the issuance of a notice of allowance under 35 U.S.C. 151 it subsequently appears that the applicant is not entitled to a patent (e.g., in response to information provided by the applicant or uncovered by the USPTO), the USPTO will withdraw the application from issuance and issue an Office action under 35 U.S.C. 132 stating the applicable rejection, objection, or other requirement, with the reasons therefor.

As held in Blacklight Power, the USPTO's responsibility to issue a patent containing only patentable claims does not end with the issuance of a notice of allowance under 35 U.S.C. 151. See BlackLight Power, Inc. v. Rogan, 295 F.3d 1269, 1273 (Fed. Cir. 2002). Rather, if there is any substantial, reasonable ground

within the knowledge or cognizance of the Director as to why an application should not issue, it is the USPTO's duty to refuse to issue the patent even if a notice of allowance has previously been issued for the application. See In re Drawbaugh, 9 App. D.C. 219, 240 (D.C. Cir 1896).

Moreover, the applicant continues to be engaged in the examination process after the mailing of the notice of allowance. 37 CFR 1.56 makes clear that the applicant has a duty to disclose information material to patentability as long as the application is pending before the USPTO (*i.e.*, until a patent is granted or the application is abandoned). See 37 CFR 1.56(a) ("[t]he duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned"). 37 CFR 1.97 and 1.98 provide for the consideration of information submitted by the applicant after a notice of allowance has been mailed. See 37 CFR 1.97(d). In addition, 37 CFR 1.312 provides for the amendment of an application after a notice of allowance has been mailed. In fact, the request for examination procedures[5] permit the filing of a request for continued examination under 37 CFR 1.114 even after the issuance of a notice of allowance under 35 U.S.C. 151. See 37 CFR 1.114(a)(1).

As the examination process does not terminate with the mailing of the notice of allowance, the time consumed by continued examination requested by the applicant under section 132(b) does not terminate with the mailing of the notice of allowance. All the time the application is pending from the date of filing of the request for continued examination to the mailing of the notice of allowance through issuance of the patent is a 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

[5] Thus, on occasion, even where a request for continued examination has already been filed and a notice of allowance issued pursuant to that request, applicant may file a further request for continued examination.

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).

Accordingly, at issuance, the Office properly entered 518 additional days of patent term adjustment for the Office taking in excess of 3 years to issue the patent. It follows that Patentee is entitled to a patent term adjustment of 1030 days:

	838 days of examination delay
+	518 days attributable to the Office taking in excess of 3 years to issue the patent
–	168 days of overlap
–	158 days of applicant delay.

CONCLUSION

In view thereof, no adjustment to the patent term will be made. It follows that a certificate of correction is not required.

Patentee is given **two (2) months** from the mail date of this decision to respond. No extensions of time will be granted under 37 C.F.R. § 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.

Any response to this decision should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail,[6] hand-delivery,[7] or facsimile.[8]

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[6] Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
[7] Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
[8] (571) 273-8300: please note this is a central facsimile number.

Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web.[9]

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3225.[10]

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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[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 any further action(s) of Petitioner.

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MINNEAPOLIS MN 55440-1022

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OFFICE OF PETITIONS

In re Patent No. 7,953,295	:	
Vincent	:	DECISION ON
Issue Date: May 31, 2011	:	REQUEST FOR
Application No. 11/479,115	:	RECONSIDERATION OF
Filed: June 29, 2006	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 16113-0067003	:	

This is a decision on the "RESPONSE TO DECISION ON REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT" (renewed petition), filed October 24, 2011. Patentees request that the patent term adjustment indicated on the face of the Letters of Patent be corrected from one thousand and thirty (1030) days to one thousand, one hundred and sixty-one (1161) days.

The request for reconsideration is granted to the extent that the determination has been reconsidered; however, the request for reconsideration of patent term adjustment is **DENIED** with respect to making any change in the patent adjustment determination under 35 U.S.C. § 154(b) of 1030 days.

BACKGROUND

On May 31, 2011, the above-identified application matured into US Patent No. 7,953,295 with a patent term adjustment of 1030 days. The original request for reconsideration of patent term adjustment was timely filed within two months of the issue date of the patent. See 37 C.F.R. § 1.705(d).

On July 29, 2011, an original petition under 37 C.F.R. § 1.705(d) was filed requesting that patent term adjustment be reflected as one thousand, one hundred and sixty-one (1161) days.

By decision mailed August 23, 2011, the request for reconsideration was dismissed. The decision indicated that Patentees are entitled to a patent term adjustment of 1030 days, and therefore, no adjustment to the patent term will be made.

On October 24, 2011, this renewed petition was filed. It is noted that October 23, 2011 fell on a Sunday.

By the instant petition, Patentees again dispute the calculation of the "B" delay period of the patent term adjustment. Specifically, Patentees state:

> "Patentees submit that B Delay accumulated for a total of 701 days, beginning on June 30, 2009 (the day after the date that is three years after the date on which the application was filed), and ending May 31, 2011 (the date the patent was issued). The Office has excluded from B Delay the number of days corresponding to the period beginning on November 30, 2010 (the date on which a Request for Continued Examination was filed) and ending on May 31, 2011 (the date the patent was issued). However, this entire period should not be excluded from B delay because it does not correspond exactly to continued examination. The Examiner's mailing of a Notice of Allowance Action on January 21, 2011, closed examination of the application on that date. Section 154(b)(1)(B)(i) of Title 35 excludes from B Delay "time consumed by continued examination of the application." The statute does not provide for exclusion from B Delay of time from the mailing of a Notice of Allowance until issuance (a period during which continued examination did not occur."
>
> Renewed petition, pages 1-2.

RELEVANT STATUTE AND REGULATIONS

35 U.S.C. § 154(b) as amended by § 4402 of the American Inventors Protection Act of 1999[1] (AIPA) provides that:

> ADJUSTMENT OF PATENT TERM. –
>
> (1) PATENT TERM GUARANTEES. –
>
> (A) GUARANTEE OF PROMPT PATENT AND TRADEMARK OFFICE RESPONSES. – Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the Patent and Trademark Office to –

[1] Public Law 106-113, 113 Stat. 1501, 1501A-557 through 1501A-560 (1999).

(i) provide at least one of the notifications under section 132 of this title or a notice of allowance under section 151 of this title not later than 14 months after –

(I) the date on which an application was filed under section 111(a) of this title; or

(II) the date on which an international application fulfilled the requirements of section 371 of this title;

(ii) respond to a reply under section 132, or to an appeal taken under section 134, within 4 months after the date on which the reply was filed or the appeal was taken;

(iii) act on an application within 4 months after the date of a decision by the Board of Patent Appeals and Interferences under section 134 or 135 or a decision by a Federal court under section 141, 145, or 146 in a case in which allowable claims remain in the application; or

(iv) issue a patent within 4 months after the date on which the issue fee was paid under section 151 and all outstanding requirements were satisfied, the term of the patent shall be extended 1 day for each day after the end of the period specified in clause (i), (ii), (iii), or (iv), as the case may be, until the action described in such clause is taken.

(B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY. – Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including –

(i) any time consumed by continued examination of the application requested by the applicant under section 132(b);

(ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or

(iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued.

(C) GUARANTEE OR ADJUSTMENTS FOR DELAYS DUE TO

INTERFERENCES, SECRECY ORDERS, AND APPEALS. — Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to —

(i) a proceeding under section 135(a);

(ii) the imposition of an order under section 181; or

(iii) appellate review by the Board of Patent Appeals and Interferences or by a Federal court in a case in which the patent was issued under a decision in the review reversing an adverse determination of patentability, the term of the patent shall be extended 1 day for each day of the pendency of the proceeding, order, or review, as the case may be.

(2) LIMITATIONS. —

(A) IN GENERAL. — To the extent that periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

The implementing regulation, 37 C.F.R. § 1.702, provides grounds for adjustment of patent term due to examination delay under the Patent Term Guarantee Act of 1999 (original applications, other than designs, filed on or after May 29, 2000).

(a) Failure to take certain actions within specified time frames. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to:

(1) Mail at least one of a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) or fulfilled the requirements of 35 U.S.C. 371 in an international application;

(2) Respond to a reply under 35 U.S.C. 132 or to an appeal taken under 35 U.S.C. 134 not later than four months after the date on which the reply was filed or the appeal was taken;

(3) Act on an application not later than four months after the date of a decision by the Board of Patent Appeals and Interferences under 35 U.S.C. 134 or 135 or a decision by a Federal court under 35 U.S.C. 141, 145, or 146 where at least one allowable claim remains in the application; or

(4) Issue a patent not later than four months after the date on which the issue fee was paid under 35 U.S.C. 151 and all outstanding requirements were satisfied.

(b) Failure to issue a patent within three years of the actual filing date of the application. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application, but not including:[2]

In pertinent part, 37 C.F.R. § 1.703 provides for calculation of the periods, as follows:

Period of adjustment of patent term due to examination delay.

(a) The period of adjustment under § 1.702(a) is the sum of the following periods:

(1) The number of days, if any, in the period beginning on the day after the date that is fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) or fulfilled the requirements of 35 U.S.C. 371 and ending on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first;

(2) The number of days, if any, in the period beginning on the day after the date that is four months after the date a reply under § 1.111 was filed and ending on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first;

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[2] (1) Any time consumed by continued examination of the application under 35 U.S.C. 132(b);

(2) Any time consumed by an interference proceeding under 35 U.S.C. 135(a);

(3) Any time consumed by the imposition of a secrecy order under 35 U.S.C. 181;

(4) Any time consumed by review by the Board of Patent Appeals and Interferences or a Federal court; or

(5) Any delay in the processing of the application by the Office that was requested by the applicant.

(3) The number of days, if any, in the period beginning on the day after the date that is four months after the date a reply in compliance with § 1.113(c) was filed and ending on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first;

(4) The number of days, if any, in the period beginning on the day after the date that is four months after the date an appeal brief in compliance with § 41.37 of this title was filed and ending on the date of mailing of any of an examiner's answer under § 41.39 of this title, an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first;

(5) The number of days, if any, in the period beginning on the day after the date that is four months after the date of a final decision by the Board of Patent Appeals and Interferences or by a Federal court in an appeal under 35 U.S.C. 141 or a civil action under 35 U.S.C. 145 or 146 where at least one allowable claim remains in the application and ending on the date of mailing of either an action under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151, whichever occurs first; and

(6) The number of days, if any, in the period beginning on the day after the date that is four months after the date the issue fee was paid and all outstanding requirements were satisfied and ending on the date a patent was issued.

(b) The period of adjustment under § 1.702(b) is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the sum of the following periods:[3]

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[3] (1) The number of days, if any, in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued;

(2)(i) The number of days, if any, in the period beginning on the date an interference was declared or redeclared to involve the application in the interference and ending on the date that the interference was terminated with respect to the application; and (ii) The number of days, if any, in the period beginning on the date prosecution in the application was suspended by the Office due to interference proceedings under 35 U.S.C. 135(a) not

37 C.F.R. 1.703(f) provides that:

> The adjustment will run from the expiration date of the patent as set forth in 35 U.S.C. 154(a)(2). To the extent that periods of delay attributable to the grounds specified in §1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed. The term of a patent entitled to adjustment under § 1.702 and this section shall be adjusted for the sum of the periods calculated under paragraphs (a) through (e) of this section, to the extent that such periods are not overlapping, less the sum of the periods calculated under § 1.704. The date indicated on any certificate of mailing or transmission under § 1.8 shall not be taken into account in this calculation.

OPINION

Patentees' argument has again been considered, but is not persuasive. The Office's calculation of "B delay" is correct. The "B delay" is an adjustment entered if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed. However, the adjustment does not

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involving the application and ending on the date of the termination of the suspension;

(3)(i) The number of days, if any, the application was maintained in a sealed condition under 35 U.S.C. 181; (ii) The number of days, if any, in the period beginning on the date of mailing of an examiner's answer under § 41.39 of this title in the application under secrecy order and ending on the date the secrecy order was removed; (iii) The number of days, if any, in the period beginning on the date applicant was notified that an interference would be declared but for the secrecy order and ending on the date the secrecy order was removed; and (iv) The number of days, if any, in the period beginning on the date of notification under § 5.3(c) of this chapter and ending on the date of mailing of the notice of allowance under 35 U.S.C. 151; and,

(4) The number of days, if any, in the period beginning on the date on which a notice of appeal to the Board of Patent Appeals and Interferences was filed under 35 U.S.C. 134 and § 41.31 of this title and ending on the date of the last decision by the Board of Patent Appeals and Interferences or by a Federal court in an appeal under 35 U.S.C. 141 or a civil action under 35 U.S.C. 145, or on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first, if the appeal did not result in a decision by the Board of Patent Appeals and Interferences.

include, among other things, any time consumed by continued examination of the application at the request of the applicant under 35 U.S.C. 132(b).[4] So, with respect to calculating the "B delay" where applicant has filed a request for continued examination, the period of adjustment is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the number of days in the period beginning on the date on which a request for 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.

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[4] 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.

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.

Patentee's argument that the period of time after the issuance of a notice of allowance on a request for continued examination is not "any time consumed by continued examination requested by the applicant under section 132(b)" within the meaning of 35 U.S.C. 154(b)(1)(B)(i) is not availing. This limitation is not supported by the statutory language. Garcia v. United States, 469 U.S. 70, 75 (1984) ("only the most extraordinary showing of contrary intentions from [legislative history] would justify a limitation on the 'plain meaning' of the statutory language"). BP Am. Prod. Co. v. Burton, 549 U.S. 84, 91 (2006) ("Unless otherwise defined, statutory terms are generally interpreted in accordance with their ordinary meaning"). The statute provides for a guarantee of no more than 3-year application pendency, by providing for an adjustment in the patent term:

First, "Subject to the limitations of paragraph (2)," means that the limitations of paragraph 2 apply to this paragraph's adjustment of patent term. That is, the day-to-day extension of patent term for pendency beyond the 3 year period is restricted as follows: 1) "B delay" cannot accrue for days of "A delay" that overlap, 2) the patent term cannot be extended beyond disclaimed term, and 3) the period of adjustment, including accrued "B delay," will be reduced for applicant delay.

Second, "if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States," meaning that the condition must first occur that the issuance of an original patent (35 U.S.C. 153), not merely the issuance of a notice of allowance, is delayed due to the Office's failure to issue a patent (sign and record a patent grant in the name of the United States), not merely mail a notice of allowance, within 3 years after the actual filing date of the application in the United States. This provision gives the Office a three-year period to issue a patent (sign and record a patent grant in the name of the United States) after the application filing date before an adjustment will accrue for "B delay."

Third, "not including- (i) any time consumed by continued examination of the application requested by the applicant under section 132(b); (ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or (iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), meaning that the three-year period does not include "any time consumed by" or "any delay in processing," as specified in clauses (i)-(iii). This language correlates to 35 U.S.C. 154(b)(1)(A) which likewise provides the basis for determining the period given the Office to take the specified actions before an adjustment will accrue for "A delay" (e.g., extended for 1 day after the day after the period specified in clauses (i)-(iv)).

Furthermore, these clauses are interpreted using their ordinary meanings. Nonetheless, the context of the legislation should be considered. As stated in Wyeth v. Dudas, 580 F. Supp.2d 138(D.D.C., September 30, 2008), because the clock for calculating the 20-year patent term begins to run on the filing date, and not on the day the patent is actually granted, some of the effective term of a patent is consumed by the time it takes to prosecute the application. To mitigate this effect, the statute, *inter alia*, grants adjustments of patent term whenever the patent prosecution takes more than three years, regardless of the reason. The time consumed by prosecution of the application includes every day the application is pending before the Office from the actual filing date of the application in the United States until the date of issuance of the patent. The time it takes to prosecute the application ends not with the mailing of the notice of allowance, but with the issuance of the patent.

Thus, not including "any time consumed by" means not including any days used to prosecute the application as specified in clauses (i)-(ii).[5] Clause (i) specifies "any time consumed by

[5] Clause (iii) provides for not including (iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued. It is noted that paragraph (3)(C) allows with an adequate showing by applicant for reinstatement of no more than 3 months of

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 C.F.R. 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

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the patent term reduced for applicant delay in taking in excess of three months to respond.

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 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[6] 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

[6] Thus, on occasion, even where a request for continued examination has already been filed and a notice of allowance issued pursuant to that request, applicant may file a further request for continued examination.

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 C.F.R. 1.53(b).

In this instance, a request for continued examination was filed on November 30, 2010, 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 on November 30, 2010, and ending on May 31, 2011 is not included in calculating Office delay. In view thereof, it is concluded that the patent term adjustment of 1030 days is correct.

CONCLUSION

The request for reconsideration of the revised patent term adjustment is denied.

The Office acknowledges that Patentees previously submitted the $200 fee set forth in § 1.18(e) on application for patent term adjustment filed July 29, 2011. As this request pertains only to the over 3-year delay issue raised in the application for patent term adjustment, no additional fees are required.

In view thereof, no adjustment to the patent term will be made. It follows that a certificate of correction is not required. Telephone inquiries regarding this decision may be directed to Senior Attorney Paul Shanoski at (571) 272-3225.[7]

Anthony Knight
Director
Office of Petitions

[7] Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

In re Application of
Donald A. Cleland, et al.
Application No. 11/479,222
Filed: June 30, 2006
Attorney Docket No. GOW020PA

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.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Fish & Richardson, PC (SV) has been revoked by the applicant of the patent application on December 8, 2011. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to undersigned at 571-272-1642.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:	
Christof BORNOEVD, et *al.*	:	
Application No. 11/479,284	:	DECISION GRANTING PETITION
Filed: June 30, 2006	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **2005P00574US/0010-014002**	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed September 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 August 18, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 2165 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.*

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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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

MAILED

SEP 14 2010

OFFICE OF PETITIONS

In re Application of	:	
Yang et al.	:	
Application No. 11/479,362	:	ON PETITION
Filed: June 30, 2006	:	
Attorney Docket No. NHNMUH.002C1	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed August 26, 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 Non-Final Office Action, including amendments, (2) the petition fee, 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). Accordingly, since the $1,110.00 extension of time fee submitted with the petition was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account as authorized.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center AU 3688 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Patent No. : 7767032
Ser. No. : 11/479374
Inventor(s) : SHENG et al.
Issued : August 3, 2010
Title : NO-CLEAN LOW-RESIDUE SOLDER PASTE FOR SEMICONDUCTOR DEVICE APPLICATIONS
Docket No. : HERAEUS 00 02-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.

Tasneem Siddiqui
For Mary Diggs (Supervisor)
Decisions & Certificates
of Correction Branch
(703) **756-1593** or (703) 756-1814
Date: 9/10/2010

Address: William D. Schmidt, Esq.
Kalow & Springut LLP
488 Madison Avenue, 19th Floor
New York, NY 10022

ts/md

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KALOW & SPRINGUT LLP
488 MADISON AVENUE
19TH FLOOR
NEW YORK NY 10022

MAILED
JAN 18 2011
OFFICE OF PETITIONS

In re Patent No. 7,767,032	:	
Application No. 11/479,374	:	
Filed: June 30, 2006	:	ON PETITION
Issued: August 3, 2010	:	
Attorney Docket No. HERAEUS 0002-US	:	

This is a decision on the petition filed December 6, 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**.

This matter is being referred to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-7751. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

Joan Olszewski
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

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SEP 30 2010

TECHNOLOGY CENTER 2100

Theodosios Thomas
111 Corning Road
Ste 220
Cary, North Carolina 27518

In re Application of:
Robert P. MORRIS
Appl. No.: 11/479441

Filed: June 30, 2006
For: METHODS, SYSTEMS, AND COMPUTER PROGRAM PRODUCTS FOR GENERATING APPLICATION PROCESSES BY LINKING APPLICATIONS

DECISION ON PETITION
UNDER 37 CFR § 1.103(a)

This is a decision on the petition for suspension of prosecution under 37 CFR § 1.103(a) filed on July 16, 2010.

The petition is **GRANTED**.

Pursuant to applicant's request filed on July 16, 2010, action by the Office is suspended on this application under 37 CFR § 1.103(a) for a period of ***three (3) months from the mailing date of this letter***. At the end of this period, applicant is required to notify the examiner and request continuance of prosecution or a further suspension. See MPEP § 709.

Suspension of action under 37 CFR § 1.103(a)-(d) at the applicant's request will cause a reduction in patent term adjustment accumulated (if any) under 37 CFR § 1.703. The reduction is equal to the number of days beginning on the date a request for suspension of action was filed and ending on the date of the termination of the suspension. See 37 CFR § 1.704(c)(1).

Any inquiry concerning this decision should be directed to the undersigned (or name of the TQAS) whose telephone number is (571) 272-3591.

/Gail Hayes/
Gail Hayes, SPRE/QAS
Technology Center 2100
Computer Architecture and Software

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/479,441	06/30/2006	Robert Paul Morris	1390/US	8795

52354 7590 09/30/2010
SCENERA RESEARCH, LLC
JENKINS, WILSON, TAYLOR & HUNT, P.A.
5400 Trinity Road
Suite 303
Raleigh, NC 27607

EXAMINER
SEYE, ABDOU K

ART UNIT	PAPER NUMBER
2194	

MAIL DATE	DELIVERY MODE
09/30/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/479,441	06/30/2006	Robert Paul Morris	1390/US	8795

52354 7590 01/12/2011
SCENERA RESEARCH, LLC
JENKINS, WILSON, TAYLOR & HUNT, P.A.
5400 Trinity Road
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Raleigh, NC 27607

EXAMINER
SEYE, ABDOU K

ART UNIT	PAPER NUMBER
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MAIL DATE	DELIVERY MODE
01/12/2011	PAPER

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United States Patent and Trademark Office
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Theodosios Thomas
SCENERA RESEARCH, LLC
JENKINS, WILSON, TAYLOR & HUNT, P.A.
5400 TRINITY ROAD
SUITE 303
RALEIGH, NC 27607

January 11, 2011

In re Application of:
Robert P. MORRIS
Appl. No.: 11/479441

Filed: June 30, 2006
For: METHODS, SYSTEMS, AND COMPUTER PROGRAM PRODUCTS FOR GENERATING APPLICATION PROCESSES BY LINKING APPLICATIONS

DECISION ON PETITION
UNDER 37 CFR § 1.103(a)

This is a decision on the petition for suspension of prosecution under 37 CFR § 1.103(a) filed on July 16, 2010.

The petition is **GRANTED**.

Pursuant to applicant's request filed on July 16, 2010, action by the Office is suspended on this application under 37 CFR § 1.103(a) for a period of ***three (3) months from the mailing date of this letter***. At the end of this period, applicant is required to notify the examiner and request continuance of prosecution or a further suspension. See MPEP § 709.

Suspension of action under 37 CFR § 1.103(a)-(d) at the applicant's request will cause a reduction in patent term adjustment accumulated (if any) under 37 CFR § 1.703. The reduction is equal to the number of days beginning on the date a request for suspension of action was filed and ending on the date of the termination of the suspension. See 37 CFR § 1.704(c)(1).

Any inquiry concerning this decision should be directed to the undersigned (or name of the TQAS) whose telephone number is (571) 272-3591.

/Gail Hayes/
Gail Hayes, SPRE/QAS
Technology Center 2100
Computer Architecture and Software

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Theodosios Thomas
SCENERA RESEARCH, LLC
5400 TRINITY ROAD
SUITE 303
RALEIGH, NC 27607

July 7, 2011

In re Application of:
Robert P. MORRIS
Appl. No.: 11/479441

Filed: June 30, 2006
For: METHODS, SYSTEMS, AND COMPUTER PROGRAM PRODUCTS FOR GENERATING APPLICATION PROCESSES BY LINKING APPLICATIONS

DECISION ON PETITION UNDER 37 CFR § 1.103(a)

This is a decision on the petition for suspension of prosecution under 37 CFR § 1.103(a) filed on April 15, 2011.

The petition is **GRANTED**.

Pursuant to applicant's request filed on April 15, 2011, action by the Office is suspended on this application under 37 CFR § 1.103(a) for a period of ***three (3) months from the mailing date of this letter***. At the end of this period, applicant is required to notify the examiner and request continuance of prosecution or a further suspension. See MPEP § 709.

Suspension of action under 37 CFR § 1.103(a)-(d) at the applicant's request will cause a reduction in patent term adjustment accumulated (if any) under 37 CFR § 1.703. The reduction is equal to the number of days beginning on the date a request for suspension of action was filed and ending on the date of the termination of the suspension. See 37 CFR § 1.704(c)(1).

Any inquiry concerning this decision should be directed to the undersigned (or name of the TQAS) whose telephone number is (571) 272-3591.

/Gail Hayes/
Gail Hayes, SPRE/QAS
Technology Center 2100
Computer Architecture and Software

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/479,441	06/30/2006	Robert Paul Morris	1390/US	8795

52354 7590 12/14/2011

SCENERA RESEARCH, LLC
JENKINS, WILSON, TAYLOR & HUNT, P.A.
5400 Trinity Road
Suite 303
Raleigh, NC 27607

EXAMINER
SEYE, ABDOU K

ART UNIT	PAPER NUMBER
2194	

DATE MAILED: 12/14/2011

Please find below and/or attached an Office communication concerning this application or proceeding.

The request for deferral/suspension of action under 37 CFR 1.103 has been approved.

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Theodosios Thomas
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RALEIGH, NC 27607

December 12, 2011

In re Application of:
Robert P. MORRIS
Appl. No.: 11/479441

Filed: June 30, 2006
For: METHODS, SYSTEMS, AND COMPUTER PROGRAM PRODUCTS FOR GENERATING APPLICATION PROCESSES BY LINKING APPLICATIONS

DECISION ON PETITION
UNDER 37 CFR § 1.103(a)

This is a decision on the petition for suspension of prosecution under 37 CFR § 1.103(a) filed on October 10, 2011.

The petition is **GRANTED and the application identified above is suspended for three (3) months from the mailing date of this letter.**

Pursuant to applicant's request filed on April 15, 2011, action by the Office is suspended on this application under 37 CFR § 1.103(a) for a period of ***three (3) months from the mailing date of this letter***. At the end of this period, applicant is required to notify the examiner and request continuance of prosecution or a further suspension. See MPEP § 709.

Suspension of action under 37 CFR § 1.103(a)-(d) at the applicant's request will cause a reduction in patent term adjustment accumulated (if any) under 37 CFR § 1.703. The reduction is equal to the number of days beginning on the date a request for suspension of action was filed and ending on the date of the termination of the suspension. See 37 CFR § 1.704(c)(1).

Any inquiry concerning this decision should be directed to the undersigned (or name of the TQAS) whose telephone number is (571) 272-3591.

/Gail Hayes/
Gail Hayes, SPRE/QAS
Technology Center 2100
Computer Architecture and Software

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/479,441	06/30/2006	Robert Paul Morris	I390/US	8795

52354 7590 03/22/2012
SCENERA RESEARCH, LLC
JENKINS, WILSON, TAYLOR & HUNT, P.A.
5400 Trinity Road
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Raleigh, NC 27607

EXAMINER
SEYE, ABDOU K

ART UNIT	PAPER NUMBER
2194	

MAIL DATE	DELIVERY MODE
03/22/2012	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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Theodosios Thomas
SCENERA RESEARCH, LLC
5400 Trinity Road
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Raleigh, North Carolina 27607

In re Application of:
Robert P. MORRIS
Appl. No.: 11/479,441
Filed: June 30, 2006
For: METHODS, SYSTEMS, AND COMPUTER PROGRAM PRODUCTS FOR GENERATING APPLICATION PROCESSES BY LINKING APPLICATIONS

DECISION ON PETITION UNDER 37 CFR § 1.103(a)

This is a decision on the petition for suspension of prosecution under 37 CFR § 1.103(a) filed on 21 March 2012.

The petition is **GRANTED**.

Pursuant to applicant's request filed on 21 March 2012, action by the Office is suspended on this application under 37 CFR § 1.103(a) for a period of three (3) months from the mailing date of this letter. At the end of this period, applicant is required to notify the examiner and request continuance of prosecution or a further suspension. See MPEP § 709.

Suspension of action under 37 CFR § 1.103(a)-(d) at the applicant's request will cause a reduction in patent term adjustment accumulated (if any) under 37 CFR § 1.703. The reduction is equal to the number of days beginning on the date a request for suspension of action was filed and ending on the date of the termination of the suspension. See 37 CFR § 1.704(c)(1).

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3613.

/Vincent N. Trans/
Vincent N. Trans, QAS
Technology Center 2100
Computer Architecture and Software

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MAILED

SEP 30 2010

TECHNOLOGY CENTER 2100

Kevin L. Wingate
111 Corning Road
Ste 220
Cary, North Carolina 27518

In re Application of:
Robert P. MORRIS
Appl. No.: 11/479442

Filed: June 30, 2006
For: METHODS, SYSTEMS, AND COMPUTER PROGRAM PRODUCTS FOR CREATING AN INPUT-VALUE-SPECIFIC LOADABLE INSTANCE OF AN APPLICATION

DECISION ON PETITION
UNDER 37 CFR § 1.103(a)

This is a decision on the petition for suspension of prosecution under 37 CFR § 1.103(a) filed on July 16, 2010.

The petition is **GRANTED**.

Pursuant to applicant's request filed on July 16, 2010, action by the Office is suspended on this application under 37 CFR § 1.103(a) for a period of ***three (3) months from the mailing date of this letter***. At the end of this period, applicant is required to notify the examiner and request continuance of prosecution or a further suspension. See MPEP § 709.

Suspension of action under 37 CFR § 1.103(a)-(d) at the applicant's request will cause a reduction in patent term adjustment accumulated (if any) under 37 CFR § 1.703. The reduction is equal to the number of days beginning on the date a request for suspension of action was filed and ending on the date of the termination of the suspension. See 37 CFR § 1.704(c)(1).

Any inquiry concerning this decision should be directed to the undersigned (or name of the TQAS) whose telephone number is (571) 272-3591.

/Gail Hayes/
Gail Hayes, SPRE/QAS
Technology Center 2100
Computer Architecture and Software

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/479,442	06/30/2006	Robert Paul Morris	1389/US	8821

52354 7590 09/30/2010
SCENERA RESEARCH, LLC
JENKINS, WILSON, TAYLOR & HUNT, P.A.
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EXAMINER
KRAFT, SHIH-WEI

ART UNIT	PAPER NUMBER
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MAIL DATE	DELIVERY MODE
09/30/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/479,442	06/30/2006	Robert Paul Morris	I389/US	8821

52354 7590 01/06/2011
SCENERA RESEARCH, LLC
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5400 Trinity Road
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Raleigh, NC 27607

EXAMINER
KRAFT, SHIH-WEI

ART UNIT	PAPER NUMBER
2194	

MAIL DATE	DELIVERY MODE
01/06/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

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January 5, 2011

Kevin L. Wingate
SCENERA RESEARCH, LLC
5400 TRINITY ROAD
SUITE 303
RALEIGH, NC 27607

In re Application of:
Robert P. MORRIS
Appl. No.: 11/479442

Filed: June 30, 2006
For: METHODS, SYSTEMS, AND COMPUTER PROGRAM PRODUCTS FOR CREATING AN INPUT-VALUE-SPECIFIC LOADABLE INSTANCE OF AN APPLICATION

DECISION ON PETITION
UNDER 37 CFR § 1.103(a)

This is a decision on the petition for suspension of prosecution under 37 CFR § 1.103(a) filed on July 16, 2010.

The petition is **GRANTED**.

Pursuant to applicant's request filed on July 16, 2010, action by the Office is suspended on this application under 37 CFR § 1.103(a) for a period of ***three (3) months from the mailing date of this letter***. At the end of this period, applicant is required to notify the examiner and request continuance of prosecution or a further suspension. See MPEP § 709.

Suspension of action under 37 CFR § 1.103(a)-(d) at the applicant's request will cause a reduction in patent term adjustment accumulated (if any) under 37 CFR § 1.703. The reduction is equal to the number of days beginning on the date a request for suspension of action was filed and ending on the date of the termination of the suspension. See 37 CFR § 1.704(c)(1).

Any inquiry concerning this decision should be directed to the undersigned (or name of the TQAS) whose telephone number is (571) 272-3591.

/Gail Hayes/
Gail Hayes, SPRE/QAS
Technology Center 2100
Computer Architecture and Software

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Kevin L. Wingate
SCENERA RESEARCH, LLC
5400 TRINITY ROAD
SUITE 303
RALEIGH, NC 27607

July 7, 2011

In re Application of:
Robert P. MORRIS
Appl. No.: 11/479442

Filed: June 30, 2006
For: METHODS, SYSTEMS, AND COMPUTER PROGRAM PRODUCTS FOR CREATING AN INPUT-VALUE-SPECIFIC LOADABLE INSTANCE OF AN APPLICATION

DECISION ON PETITION
UNDER 37 CFR § 1.103(a)

This is a decision on the petition for suspension of prosecution under 37 CFR § 1.103(a) filed on April 11, 2011.

The petition is **GRANTED**.

Pursuant to applicant's request filed on April 11, 2011, action by the Office is suspended on this application under 37 CFR § 1.103(a) for a period of ***three (3) months from the mailing date of this letter***. At the end of this period, applicant is required to notify the examiner and request continuance of prosecution or a further suspension. See MPEP § 709.

Suspension of action under 37 CFR § 1.103(a)-(d) at the applicant's request will cause a reduction in patent term adjustment accumulated (if any) under 37 CFR § 1.703. The reduction is equal to the number of days beginning on the date a request for suspension of action was filed and ending on the date of the termination of the suspension. See 37 CFR § 1.704(c)(1).

Any inquiry concerning this decision should be directed to the undersigned (or name of the TQAS) whose telephone number is (571) 272-3591.

/Gail Hayes/
Gail Hayes, SPRE/QAS
Technology Center 2100
Computer Architecture and Software

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/479,442	06/30/2006	Robert Paul Morris	1389/US	8821

52354 7590 12/14/2011

SCENERA RESEARCH, LLC
JENKINS, WILSON, TAYLOR & HUNT, P.A.
5400 Trinity Road
Suite 303
Raleigh, NC 27607

EXAMINER
KRAFT, SHIH-WEI

ART UNIT	PAPER NUMBER
2194	

DATE MAILED: 12/14/2011

Please find below and/or attached an Office communication concerning this application or proceeding.

The request for deferral/suspension of action under 37 CFR 1.103 has been approved.

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

Kevin L. Wingate
SCENERA RESEARCH, LLC
5400 TRINITY ROAD
SUITE 303
RALEIGH, NC 27607

December 12, 2011

In re Application of:
Robert P. MORRIS
Appl. No.: 11/479442

Filed: June 30, 2006
For: METHODS, SYSTEMS, AND COMPUTER PROGRAM PRODUCTS FOR CREATING AN INPUT-VALUE-SPECIFIC LOADABLE INSTANCE OF AN APPLICATION

DECISION ON PETITION
UNDER 37 CFR § 1.103(a)

This is a decision on the petition for suspension of prosecution under 37 CFR § 1.103(a) filed on October 10, 2011.

The petition is **GRANTED and the application identified above is suspended for three (3) months from the mailing date of this letter**.

Pursuant to applicant's request filed on April 11, 2011, action by the Office is suspended on this application under 37 CFR § 1.103(a) for a period of ***three (3) months from the mailing date of this letter***. At the end of this period, applicant is required to notify the examiner and request continuance of prosecution or a further suspension. See MPEP § 709.

Suspension of action under 37 CFR § 1.103(a)-(d) at the applicant's request will cause a reduction in patent term adjustment accumulated (if any) under 37 CFR § 1.703. The reduction is equal to the number of days beginning on the date a request for suspension of action was filed and ending on the date of the termination of the suspension. See 37 CFR § 1.704(c)(1).

Any inquiry concerning this decision should be directed to the undersigned (or name of the TQAS) whose telephone number is (571) 272-3591.

/Gail Hayes/
Gail Hayes, SPRE/QAS
Technology Center 2100
Computer Architecture and Software

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/479,442	06/30/2006	Robert Paul Morris	1389/US	8821

52354 7590 03/22/2012
SCENERA RESEARCH, LLC
JENKINS, WILSON, TAYLOR & HUNT, P.A.
5400 Trinity Road
Suite 303
Raleigh, NC 27607

EXAMINER
KRAFT, SHIH-WEI

ART UNIT	PAPER NUMBER
2194	

MAIL DATE	DELIVERY MODE
03/22/2012	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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Kevin L. Wingate
SCENERA RESEARCH, LLC
5400 Trinity Road
Suite 303
Raleigh, North Carolina 27607

In re Application of: Robert P. MORRIS Appl. No.: 11/479,442 Filed: June 30, 2006 For: METHODS, SYSTEMS, AND COMPUTER PROGRAM PRODUCTS FOR CREATING AN INPUT-VALUE-SPECIFIC LOADABLE INSTANCE OF AN APPLICATION	DECISION ON PETITION UNDER 37 CFR § 1.103(a)

This is a decision on the petition for suspension of prosecution under 37 CFR § 1.103(a) filed on 21 March 2012.

The petition is **GRANTED**.

Pursuant to applicant's request filed on 21 March 2012, action by the Office is suspended on this application under 37 CFR § 1.103(a) for a period of three (3) months from the mailing date of this letter. At the end of this period, applicant is required to notify the examiner and request continuance of prosecution or a further suspension. See MPEP § 709.

Suspension of action under 37 CFR § 1.103(a)-(d) at the applicant's request will cause a reduction in patent term adjustment accumulated (if any) under 37 CFR § 1.703. The reduction is equal to the number of days beginning on the date a request for suspension of action was filed and ending on the date of the termination of the suspension. See 37 CFR § 1.704(c)(1).

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3613.

/Vincent N. Trans/
Vincent N. Trans, QAS
Technology Center 2100
Computer Architecture and Software

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Paper No.

MAILED
DEC 19 2011
OFFICE OF PETITIONS

Thomas Spinelli
Scully, Scott, Murphy & Presser
400 Garden City Plaza
Garden City NY 11530

In re Patent No. 8,038,597 :
Nakagawa et al. :
Issue Date: October 18, 2011 :
Application No. 11/479,492 : ON PETITION
Filed: June 30, 2006 :
Attorney Docket No. **20000** :
:

This is in response to the "PETITION UNDER 37 C.F.R. § 3.81(b)" filed December 8, 2011, which is properly treated as a request 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.**

Pursuant to the issue fee transmittal filed September 14, 2011, the patent issued with one assignee named, Olympus Medical Systems Corp., Tokyo (JP). Patentee files this request, requesting that the name of the assignee be corrected to add omitted assignee "Olympus Corporation, Tokyo (JP)" and submits a certificate of correction for this purpose. (It is further noted that a "SUPPLEMENTAL FEES TRANSMITTAL" was filed on October 3, 2011. It is unclear why this document was filed as no fee change had occurred as of the payment of the issue fee on September 14, 2011. Further, this transmittal had no effect on the assignee data as the assignee data was captured from the transmittal filed September 14, 2011).

Patentee's evidence and Office records show that the assignment of the above-identified application to "Olympus Medical Systems Corp., Tokyo (JP)" and "Olympus Corporation, Tokyo (JP)" was recorded on June 30, 2006. The recording of the assignment (Reel/Frame 01807/0874) occurred before issuance of the patent on October 18, 2011. (It is noted that the assignment recorded after issuance of the patent had no effect on assignee name. It

appears that it only corrected the street address of the assignees).

Receipt of the required $100 certificate of correction fee is acknowledged. The required $130 processing fee has been charged to Deposit Account No. 19-1013, as authorized.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3219. 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 has been notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction to correct the Assignee data.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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LUCAS & MERCANTI, LLP
475 Park Avenue South, 15th Floor
New York NY 10016

MAILED
SEP 07 2011
OFFICE OF PETITIONS

In re Application of
Krumbholz et al.
Application No. 11/479,538
Filed: June 30, 2006
Attorney Docket No. BE-06CONII
For: PROCESS FOR EXTRACTING A SUBSTANCE OR A SUBSTANCE GROUP FROM A MIXTURE

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed August 22, 2011, to revive the above-identified application.

This application became abandoned for failure to properly respond to the final Office action, mailed November 6, 2007, which set an extendable three month period for reply. Applicants obtained a one month extension of time under 37 CFR 1.136(a) and filed an amendment after final on March 11, 2008 (certificate of mailing date March 6, 2008). The amendment after final failed to place this application in *prima facie* condition for allowance, as was explained in the June 27, 2008 Advisory action. Accordingly, this application became abandoned on March 7, 2008. A Notice of Abandonment was mailed on July 22, 2008.

Applicants have submitted a RCE and $405.00 required fee and a request to use the previously filed amendment of March 11, 2008 (certificate of mailing date March 6, 2008) as the submission in reply to the November 6, 2007 final Office action, an acceptable statement of the unintentional nature of the delay in responding to the November 6, 2007 final Office action, and the $810.00 petition fee.

The petition is **GRANTED**.

This application is being referred to Technology Center AU 1622 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment previously submitted.

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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Paper No.

MacPherson Kwok Chen & Heid LLP
c/o Intuitive Surgical Operations, Inc.
1266 Kifer Road
Bldg. 101
Sunnyvale CA 94086

MAILED
JAN 03 2011
OFFICE OF PETITIONS

In re Application of	:	
Stein et al.	:	
Application No. 11/479,614	:	DECISION ON PETITION
Filed: June 30, 2006	:	PURSUANT TO
Attorney Docket No.:	:	37 C.F.R. § 1.137(B)
70228.48 (M-16430 US)	:	
Title: ROBOTIC ENDOSCOPIC	:	
RETRACTOR FOR USE IN	:	
MINIMALLY INVASIVE SURGERY	:	

This is a decision on the petition pursuant to 37 C.F.R. § 1.137(b), filed December 8, 2010, to revive the above-identified application.

This petition pursuant to 37 C.F.R. § 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed March 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 July 1, 2010. A notice of abandonment was mailed on October 13, 2010.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in 37 C.F.R. § 1.17(m);
(3) A statement that the entire delay in filing the

required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;

(4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

With this petition, Petitioner has submitted 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 December 8, 2010 can be processed in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the revival has been acknowledged by the Technology Center in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status.**

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[2] All other inquiries concerning this application should be directed to the Technology Center.

It is noted that the address listed on the petition differs from the address of record. The application file does not indicate a change of correspondence address has been filed in this case,

---

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).

although the address given on the petition differs from the address of record. If Petitioner desires to receive future correspondence regarding this application, the change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to Petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary. Petitioner will not receive future correspondence related to this application unless Change of Correspondence Address, Patent Form (PTO/SB/122) is submitted for the above-identified application. For Petitioner's convenience, a blank Change of Correspondence Address, Patent Form (PTO/SB/122), may be found at http://www.uspto.gov/web/forms/sb0122.pdf.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

cc: David S. Park
Haynes and Boone LLP
1615 L Street NW, Suite 800
Washington, DC 20036

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/479,619	06/30/2006	King Owyang	VISH-8755(2)	9480

7590 10/06/2010
WAGNER, MURABITO & HAO LLP
Third Floor
Two North Market street
San Jose, CA 95113

EXAMINER
DINH, TUAN T

ART UNIT	PAPER NUMBER
2835	

MAIL DATE	DELIVERY MODE
10/06/2010	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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WAGNER, MURABITO & HAO LLP
Third Floor
Two North Market street
San Jose, CA 95113

In re Application of King Owyang et al. Appl. No.: 11/479,619 Filed: June 30, 2006 Attorney Docket No.: VISH-8755(2) For: COMPLETE POWER MANAGEMENT SYSTEM IMPLEMENTED IN A SINGLE SURFACE MOUNT PACKAGE	DECISION ON PETITION UNDER 37 C.F.R. § 1.59

This is a decision on the petition under 37 C.F.R. §1.59(b), filed November 23, 2009, to expunge information filed incorrectly from the above-identified application.

The petition is DENIED.

Petitioner requests that the Information Disclosure Statement (IDS) filed November 13, 2009 be expunged from the record. Petitioner asserts that the IDS was intended for another patent application and was submitted without a date and the foreign patent information was excluded.

Pursuant to M.P.E.P. § 724.05. III., "37 CFR 1.59(b) also covers the situation where an unintended heading has been placed on papers so that they are present in an incorrect application file. In such a situation, a petition should request that the papers be expunged ..... The grant of such a petition will be governed by the factors enumerated in paragraph II of this section in regard to the unintentional submission of information..."

Pursuant to M.P.E.P. § 724.05.II. Information unintentionally submitted may be expunged from the file record 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.

Notwithstanding the fact that the petition was not properly executed, the petition also does not satisfy conditions (B), (C), (D) and (E) above for a grantable petition to expunge information unintentionally submitted in the application under M.P.E.P. § 724.05. III.

It is also noted that the IDS, asserted as having been intended for a different application, was submitted in the instant application on November 23, 2009 with the foreign document properly includes the publication date and the name of the patentee on form PTO/SB/08a.

For the above-stated reasons, the petition to expunge is denied. The information submitted with the IDS on November 13, 2009 will remain in the file record.

Any inquiry regarding this decision should be directed to Hien H. Phan, Quality Assurance Specialist, at (571) 272-1606.

John W. Cabeca, TC Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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United States Patent and Trademark Office
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MAILED
SEP 27 2011
OFFICE OF PETITIONS

BAKER BOTTS L.L.P.
30 ROCKEFELLER PLAZA
44th Floor
NEW YORK NY 10112-4498

In re Application of	:	
Eugene YOUNG et al.	:	ON PETITION
Application No. 11/479,643	:	
Filed: June 30, 2006	:	
Atty. Docket No.: 003168.0421		

This is a decision on the petition under 37 CFR 1.137(b), filed September 16, 2011, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to respond in a timely manner to the Notice of Allowance and Fee(s) Due mailed June 15, 2011 (Notice), which set a statutory period for reply of three (3) months. The application became abandoned September 16, 2011.

The petition satisfies the conditions for revival pursuant to 37 CFR 1.137(b) by including (1) a reply in the form of payment of the issue and publication fees in accordance with the Notice mailed June 15, 2011, (2) a petition fee of $1620, and (3) a statement of unintentional delay.

Telephone inquiries relating to this decision should be directed to Robert DeWitty, Petitions Attorney, Office of Petitions (571-272-8427).

The application will be referred to Office of Data Management for further processing.

Rajesh Krishnamurthy
for Anthony Knight
Director
Office of Petitions

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MAILED

FEB 25 2011

OFFICE OF PETITIONS

OSTROLENK FABER GERB & SOFFEN
1180 AVENUE OF THE AMERICAS
NEW YORK NY 10036-8403

In re Application of	:	
BOHM	:	
Application No. 11/479,659	:	DECISION ON PETITION
Filed: June 29, 2006	:	
Docket No. P/2107-296	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 17, 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, March 9, 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 June 10, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1620; and (3) and the required statement of unintentional delay.

The Examiner assigned to this application has approved the Amendment dated March 17, 2010, for entry.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

This application is being referred to Technology Center AU 2829 for appropriate action by the Examiner in the normal course of business.

/Diane C. Goodwyn/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

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ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE NC 28280-4000

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DEC 02 2010
OFFICE OF PETITIONS

In re Application of	:	
Amitabh Dixit	:	
Application No. 11/479,683	:	DECISION ON PETITION
Filed: June 30, 2006	:	
Attorney Docket No. **042933/313097**	:	

This is a decision on the petition, filed November 3, 2010, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the final Office action mailed February 16, 2010, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on September 27, 2010.

Petitioner asserts that the Office action dated February 16, 2010 was not received.

A review of the written record indicates no irregularity in the mailing of the Office action, and, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. In this regard, the showing required to establish the failure to receive the Office action must consist of the following:

1. a statement from 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 inquires concerning this decision should be directed to JoAnne Burke at 571-272-4584.

This application is being referred to the Technology Center technical support staff of Art Unit 2624 for re-mailing the Office action of February 16, 2010. The period for reply will run from the mailing date of the Office action.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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PEARL COHEN ZEDEK LATZER LLP
1500 BROADWAY
12TH FLOOR
NEW YORK NY 10036

MAILED
APR 11 2011
OFFICE OF PETITIONS

In re Application of	:	
John P. Blass	:	
Application No. 11/479,736	:	DECISION ON PETITION
Filed: June 30, 2006	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. P-9800-US2	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed February 23, 2011 and March 25, 2011, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the application No. 10/379,816, set forth in the amendment filed February 23, 2011.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Petitions Attorney Cliff Congo at (571) 272-3207. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 1627 for consideration by the examiner of applicants' entitlement to claim benefit of priority under 35 U.S.C. § 120 to the application set forth in the amendment, filed February 23, 2011.

Chris Bottorff
Petitions Examiner
Office of Petitions

Enc: Corrected Filing Receipt (3 pages)

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United States Patent and Trademark Office
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/479,736	06/30/2006	1627	625	P-9800-US2	25	1

CONFIRMATION NO. 9530

CORRECTED FILING RECEIPT

49443
Pearl Cohen Zedek Latzer, LLP
1500 Broadway
12th Floor
New York, NY 10036

OC000000047034556

Date Mailed: 04/08/2011

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

John P. Blass, New York, NY;

Power of Attorney: The patent practitioners associated with Customer Number 49443

Domestic Priority data as claimed by applicant

This application is a DIV of 10/838,128 05/03/2004 ABN
and is a CIP of 10/379,816 03/04/2003
which is a CON of 09/529,091 10/20/2000 PAT 6,537,969
which is a 371 of PCT/US98/18120 09/01/1998
which claims benefit of 60/063,165 10/24/1997

Foreign Applications (You may be eligible to benefit from the **Patent Prosecution Highway** program at the USPTO. Please see http://www.uspto.gov for more information.)

If Required, Foreign Filing License Granted: 07/28/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/479,736**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

Method of improving cerebral function

Preliminary Class

514

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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CHADBOURNE & PARKE LLP
30 ROCKEFELLER PLAZA
NEW YORK NY 10112

MAILED
APR 05 2012
OFFICE OF PETITIONS

In re Application of :
Graziano, et al. :
Application No. 11/479,771 : DECISION ON PETITION
Filed: 29 June, 2006 :
Attorney Docket No. 18034-014US :

This is a decision on the petition pursuant to 37 C.F.R. §1.182, filed on 24 January, 2012, to change the order of the names of the inventors.

The petition pursuant to 37 C.F.R. §1.182 is **GRANTED**.

The guidance in the Commentary at MPEP §605.04(f) provides, in pertinent part:

> **§605.04(f) Signature on Joint Applications - Order of Names [R-3]**
>
> The order of names of joint patentees in the heading of the patent is taken from the order in which the typewritten names appear in the original oath or declaration. Care should therefore be exercised in selecting the preferred order of the typewritten names of the joint inventors, before filing, as requests for subsequent shifting of the names would entail changing numerous records in the Office. Since the particular order in which the names appear is of no consequence insofar as the legal rights of the joint applicants are concerned, no changes will be made except when a petition under 37 C.F.R. §1.182 is granted. The petition should be directed to the attention of the Office of Petitions. The petition to change the order of names must be signed by either the attorney or agent of record or all the applicants. Applicants are strongly encouraged to submit an application data sheet showing the new order of inventor names to ensure appropriate printing of the inventor names in any patent to issue. It is suggested that all typewritten and signed names appearing in the application papers should be in the same order as the typewritten names in the oath or declaration. (Emphasis supplied.)
>
> ***

The petition herein is signed by Counsel herein Jacob P. Martinez (Reg. No. 57,924), who seeks the following order of inventors: Ronald J. Graziano and Joel Litman.

The $400.00 fee for the petition pursuant to 37 C.F.R. §1.182 was paid, and an updated application data sheet (ADS) was submitted with the petition. (There was no supplemental oath/declaration submitted.)

Office records will be corrected to reflect the change in the order of the named inventors.

To this end and out of an abundance of caution, to ensure that the correction is properly entered into Office records, the application is being referred to the Office of Patent Application Processing (OPAP) for:

- **Review to ensure changes have been or are entered into Office records as to the order of inventors; and**
- **Mailing of an updated filing receipt reflecting those changes consistent with this decision before the application is forwarded Office of Publications/Data Management to issue as a patent in due course.**

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[1]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[1] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/479,850	06/30/2006	Irvin Jude Francis Remedios	ADOBB260	8843

61222 7590 05/06/2011
VAN PELT, YI & JAMES LLP AND ADOBE SYS. INCORP.
10050 N. FOOTHILL BLVD.
SUITE 200
CUPERTINO, CA 95014

EXAMINER
HEIDEMANN, JASON E

ART UNIT	PAPER NUMBER
2624	

NOTIFICATION DATE	DELIVERY MODE
05/06/2011	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

MAY 6 2011

In re Application of	:	
Remedios, Irvin Jude Francis	:	
Serial No.: 11/479,850	:	
Filed: June 30, 2006	:	DECISION ON PETITION
For: **FINDING AND STRUCTURING IMAGES BASED ON A COLOR SEARCH**	:	*ACCEPTANCE OF COLOR DRAWINGS*

This is a decision on the petition under 37 CFR §1.184(a) (2), filed June 30, 2006 requesting acceptance color drawings.

The petition requests that the color drawings identified in Figures 2, 4 and 5 be accepted in lieu of 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**.

Doris To
Quality Assurance Specialist
Technology Center 2600
Communications

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DEC 08 2010
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MILLIPORE CORPORATION
290 CONCORD ROAD
BILLERICA MA 01821

In re Application of	:	
Tkacik, et al.	:	
Application No. 11/479,908	:	ON PETITION
Filed: June 30, 2006	:	
Attorney Docket No. MCA-693-2 US	:	

This is in response to petition to revive an unintentionally abandoned application under 37 CFR 1.137(b), filed September 23, 2010.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to timely file a proper response to the final Office action, mailed January 12, 2010, which set a shortened statutory period for reply of three months. Applicant filed an RCE fee transmittal sheet on April 26, 2010, made timely by obtaining a one month extension of time. However, the Office mailed a Notice of Improper Request for RCE on July 15, 2010. As such, the application became abandoned on May 13, 2010. The Office mailed a Notice of Abandonment on September 23, 2010.

With the instant petition, petitioner paid the petition fee, made the proper statement of unintentional delay, and submitted the required reply in the form of an RCE.

The application is being forwarded to Group Art Unit 1797 for consideration of the RCE, filed September 23, 2010.

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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FISH & RICHARDSON PC
PO BOX 1022
MINNEAPOLIS MN 55440-1022

MAILED
AUG 09 2011
OFFICE OF PETITIONS

In re Patent No. 7,948,832	: DECISION ON
Luo, et al.	: REQUEST FOR RECONSIDERATION
Application No. 11/479,931	: of PATENT TERM ADJUSTMENT
Issue Date: May 24, 2011	:
Filed: June 29, 2006	:
Attorney Docket No. 16113-0133001	:

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. 1.705(d)", filed July 25, 2011, requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the patent is extended or adjusted from two hundred ninety-two (292) days to six hundred seventy-eight (678) days.

The petition to correct the patent term adjustment is **DISMISSED**.

On May 24, 2011, the above application issued into US Patent No. 7,948,832 with a patent term adjustment of two hundred ninety-two (292) days. The Office calculated a patent term adjustment of 292 days based upon 190 days of "A"' delay plus 308 days of "B" delay (694 days from the over 3 year date to the issue date, reduced by 386 days for when the application was under appeal), minus 206 days of Applicant delay.

Patentees argue that the 694 days of Office delay due to the Office's failure to issue the patent within three years should not have been reduced by 232 days for filing a Notice of Appeal on December 9, 2008, and 154 days for filing a Notice of Appeal on July 28, 2010. Patentees assert that although they filed these Notice of Appeals, no decision was ever rendered by the Board, and therefore there was no time consumed by "appellate review". Patentees' argument has been considered, but is not 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 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).

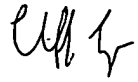
Here the period consumed by appellate review for the first notice of appeal is 232 days, beginning on December 9, 2008, the date of filing of the notice of appeal, and ending on July 28, 2009, the date the Office mailed an office action. The period consumed by appellate review for the second notice of appeal is 154 days, beginning on July 28, 2010, the date of filing of the notice of appeal, and ending on December 28, 2010, the date the Office mailed a Notice of Allowance. Thus, "B" delay is 308 (694 – 232 - 154) days.

In view thereof, the correct number of days of patent term adjustment is two hundred ninety-two (292) days (498 days of PTO delay (190 days of "A" delay and 308 days of "B" delay), reduced by 206 (123+61+22) days of Applicant delay).

It is noted that the Office issued a Notice of proposed rulemaking entitled *Revision of Patent Term Extension and Adjustment Provisions Relating to Appellate Review and Information Disclosure Statements*, 76 FR 18990 (April 6, 2011). To the extent that the final rule on *Revision of Patent Term Extension and Adjustment Provisions Relating to Appellate Review* revises the interpretation of appellate review applied in this decision, Patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the date of the final rule to file a request for reconsideration. No extensions of time will be granted under § 1.136.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3207.



Cliff Congo
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20120410

DATE : April 09, 2012

TO SPE OF : ART UNIT 2465

SUBJECT : Request for Certificate of Correction on Patent No.: 7630368

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:

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MINNEAPOLIS MN 55440-1022

MAILED
DEC 15 2011
OFFICE OF PETITIONS

In re Patent No. 8,031,940
Issued: October 4, 2011
Application No. 11/479,957
Filed: June 29, 2006
Attorney Docket No. 16113-0067001

:DECISION ON REQUEST
: FOR RECONSIDERATION
: OF PATENT TERM ADJUSTMENT
: AND
: NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION

This is a decision on the APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d) filed on December 3, 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 1159 to 1282 days.

The request for review of the patent term adjustment 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 ONE HUNDRED SIXTY-ONE days.

Patentees are given **THIRTY (30) DAYS or ONE (1) MONTH, whichever is longer,** from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

On October 4, 2011, the above-identified application matured into U.S. Patent No. 8,031,940 with a patent term adjustment of 1159 days. On December 3, 2011, Patentees submitted the instant application.

Patentees dispute the reduction of 3 days for the response filed October 31, 2006. The USPTO mailed a Notice to File Missing Parts to the applicants on July 28, 2006, setting a shortened statutory period of two months to reply. The two month response date fell on October 28, 2006, which was a weekend. The applicants filed a response to the Office Action on October 31, 2016, and argues that the period of delay should be calculated from October 30, 2006, the next business day.

In Arqule v. Kappos, _ F.Supp.2d _ (D.D.C. 2011), the District Court of the District of Columbia ruled that the 35 U.S.C. § 21 (b) "weekend and holiday" exception applies to "any action" including the § 154(b)(2)(C) Accordingly, because October 28, 2006 was a

weekend, the time period to calculate Applicant delay commenced on October 30, 2006 rather than October 28, 2006. Therefore, a delay of 3 days was accrued, corresponding to the time period between October 28, 2006 (three months after the mailing date of the Office Action, in accordance with 37 CFR §1.704(b)) and October 31, 2006. Applicants respectfully request the Office to remove the 3 days of Applicant delay and correct the total Applicant delay from 3 days to 1 day as it relates to 37 CFR §1.704(b)).

The reduction is being reconsidered and, based upon the decision in the Arqule case, it is determined that entry of a reduction for this reply timely filed pursuant to 35 U.S.C. §21(b) is not warranted.

Thus, instead of a 3 day reduction for applicant delay pursuant to 37 C.F.R. §1.704(b), 1 day should have been accorded for applicant delay. Accordingly, the period of reduction of 3 days is being removed and a period of reduction of 1 day is being entered.

In view of the periods of Applicant Delay detailed above, the total Applicant Delay for this patent should be calculated as 1 day.

Patentee also 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 June 6, 2011, thereby closing examination of the application on that date. Thus, Patentee argues no continued examination took place during the 121 day period from June 6, 2011 (the mailing date of the Notice of Allowance) until October 4, 2011 (the date the patent was issued). As such, Patentee maintains that the "B delay" should include the 121 days and be increased from 492 to 613 days.

Patentee concludes that the correct patent term adjustment is 1282 days (the sum of 994 days of "A delay" and 613 days of "B delay" minus 1 day 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 492 days based on the application having been filed under 35 U.S.C. 111(a) on June 29, 2006 and the patent not having issued as of the day after the three year date, June 29, 2009, and a Requests for Continued Examination under 132(b) having been filed on November 4, 2010, February 18, 2011, and May 23, 2011. In other words, the 121-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. 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

---

[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.

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.

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

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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.

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 November 4, 2010, and the patent issued by virtue of that request on October 4, 2011. Pursuant to 35 U.S.C. 154(b)(1)(B)(i), the period beginning on November 4, 2010 and ending on October 4, 2011 is not included in calculating Office delay.

[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.

CONCLUSION

As such, the patent term adjustment is 1161 days (994 "A delay" days plus 492 "B delay" days minus 1 Applicant delay day), not 1282 days.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand one hundred sixty-one (1161)** days.

Telephone inquiries specific to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 8,031,940 B2

DATED : October 4, 2011

INVENTOR(S) : Luc Vincent

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 (1159) days

Delete the phrase "by 1159 days" and insert – by 1161 days--

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MAILED
JAN 20 2012
OFFICE OF PETITIONS

In re Patent No. 8,031,940
Issued: October 4, 2011
Application No. 11/479,957
Filed: June 29, 2006
Attorney Docket No. 16113-0067001

: DECISION ON REQUEST
: FOR RECONSIDERATION
: OF PATENT TERM ADJUSTMENT

This is a decision on the request for reconsideration filed January 17, 2012, pursuant to 37 CFR §1.705(d), requesting that the patent term adjustment indicated on the above-identified patent be corrected from 1161 to 1282 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 December 15, 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 June 6, 2011, thereby closing examination of the application on that date. Thus, Patentee argues no continued examination took place during the 121 day period from June 6, 2011 (the mailing date of the Notice of Allowance) until October 4, 2011 (the date the patent was issued). As such, Patentee maintains that the "B delay" should include the 121 days and be increased from 492 to 613 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 492 days based on the application having been filed under 35 U.S.C. 111(a) on June 29, 2006 and the patent not having issued as of the day after the three year date, June 29, 2009, and a Requests for Continued Examination under 132(b) having been filed on November 4, 2010, February 18, 2011, and May 23, 2011. In other words, the 121-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

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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.

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., 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)

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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.

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.

[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.

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 November 4, 2010, and the patent issued by virtue of that request on October 4, 2011. Pursuant to 35 U.S.C. 154(b)(1)(B)(i), the period beginning on November 4, 2010 and ending on October 4, 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

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OFFICE OF PETITIONS

In re Application of

Rick Dean
Application No. 11/480,026
Filed: June 29, 2006
Attorney Docket No. **212/809**

DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed November 18, 2011.

The request is **NOT APPROVED**.

The request cannot be approved because the requested change in the correspondence address is improper.

The Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest *who properly became of record under 37 CFR 3.71,* or, if no assignee of the entire interest has properly been made of record, the most current address information provided for the first named inventor. 37 CFR 3.71(c) states:

> ***An assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement in compliance with § 3.73(b) that is signed by a party who is authorized to act on behalf of the assignee.***

Therefore, as there is currently no Statement under 37 CFR 3.73(b) with the current assignee information of record in the instant application, the Office cannot change the correspondence address to the address on the Request to Withdraw at this present time.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to JoAnne Burke at 571-272-4584.

JoAnne Burke
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

CROCKETT & CROCKETT, P.C.
26020 ACERO
SUITE 200
MISSION VIEJO CA 92691

MAILED

DEC 19 2011

OFFICE OF PETITIONS

In re Application of	:	
Rick Dean	:	DECISION ON PETITION
Application No. 11/480,026	:	TO WITHDRAW
Filed: June 29, 2006	:	FROM RECORD
Attorney Docket No. **212/809**	:	

This is a decision on the request to withdraw as attorney of record under 37 CFR § 1.36(b), filed December 7, 2011.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond , pursuant to 37 CFR 10.40.

The request was signed by W. Murray Spruill on behalf of all attorneys of record who are associated with Customer Number 23371.

All attorneys/agents associated with Customer Number 23371 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and all future correspondence will be directed to the assignee of the entire interest at the address indicated below.

There is outstanding Office action mailed August 30, 2011, 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: THX, Ltd.
1600 Los Gamos Drive, Suite 130
San Rafael, CA 94903

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/480,026	06/29/2006	Rick Dean	212/809

CONFIRMATION NO. 1396

POWER OF ATTORNEY NOTICE

OC000000051562155

23371
CROCKETT & CROCKETT, P.C.
26020 ACERO
SUITE 200
MISSION VIEJO, CA 92691

Date Mailed: 12/19/2011

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 12/07/2011.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/jlburke/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

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.
11/480,057	06/30/2006	Reinder N. Lap	CRD5347USNP	2310

27777 7590 04/12/2012
PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

EXAMINER
STRANSKY, KATRINA M

ART UNIT	PAPER NUMBER
3734	

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):

jnjuspatent@corus.jnj.com
lhowd@its.jnj.com
gsanche@its.jnj.com

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

In re Application of: LAP, REINDER N. Serial No.: 11/480,057 Filed: June 30, 2006 Docket: CRD5347USNP Title: RESILIENT PROTECTION SLEEVE FOR BALLOON CATHETER	DECISION ON PETITION under 37 CFR 1.181

This is a decision on the petition filed on July 6, 2011 filed under 37 CFR 1.181 seeking to have the ground of the rejection in the Examiner's Answer mailed on May 5, 2011 be designated as a new ground of rejection. The petition is being considered pursuant to 37 CFR 1.181 and no fee is required.

The petition is **dismissed.**

The following relevant facts include:

1. On May 12, 2010, the examiner issued a final rejection. In the final rejection, claims 1-7 and 9-13 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Bigus et al. (US 6,629,992 B2). At bottom of page 2 of the final rejection, the examiner stated that Bigus et al teaches a resilient protective sleeve 16 made of one polymer material. In addition, claims 1-7 and 9-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Armstrong et al. (US 6,899,727 B2) in view of Bigus et al. (US 6,629,992 B2). At the top of page 4 of the final rejection, the examiner stated that Armstrong et al teaches a resilient protective sleeve 11 made of one polymer material. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Armstrong et al. (US 6,899,727 B2) in view of Bigus et al (US 6,629,992 B2) and further in view of Holman et al. (US Publication No. 2006/0074476A1).

2. On January 10, 2011, the applicant filed an Appeal Brief. On pages 6-8 of the Appeal Brief, the Appellant continues to argue, *inter alia*, that the prior art references, Bigus et al and Armstrong et al, fail to teach a resilient protective sleeve as claimed in the claim 1, and that the examiner failed to establish a *prima facie* case of obviousness.

3. In response to the Appeal Brief, the examiner issued an Examiner's Answer on May 5, 2011. In the Examiner Answer, claims 1-7 and 9-13 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Bigus et al. (US 6,629,992 B2). Claims 1-7 and 9-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Armstrong et al. (US 6,899,727 B2) in view of Bigus et al. (US 6,629,992 B2). Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Armstrong et al. (US 6,899,727 B2) in view of Bigus et al (US 6,629,992 B2) and further in view of Holman et al. (US Publication No. 2006/0074476A1). The rejection of the claims is *in verbatim* to the final rejection of the claims. However, on page 9 of the Examiner's Answer, under the Section "Response to Arguments", in order to show the inherent characteristics of the polymeric material of ePTFE and EFP (polytetrafluoroetheylene and fluorinated ethylene propylene) in Armstrong et al is resilient, the examiner referred to Durcan, (US Publication No. 2004/0093005 A1), which is also in the field of protective sleeves or sheaths for balloon catheters and discloses that PTFE, ePTFE and FEP are materials known to one of ordinary skill in the art to be resilient polymer materials (Durcan, paragraph [0011]). In accordance with the MPEP § 2131.01, the examiner cited to Durcan, US Publication No. 2004/0093005 A1 to support that the material used in Armstrong et al is "resilient" same as claimed.

4. On July 6, 2011 in response to the newly cited prior art reference in the Examiner's Answer, the appellant filed a Reply Brief. In addition, the appellant continues to argue that no prior art references in the Examiner's Answer anticipates or renders obvious, alone or in combination, the pending claims and that there is no teaching in Armstrong et al to use resilient material.

5. On July 6, 2011, the current petition was filed arguing that the examiner has improperly introduced a new ground of rejection in the Examiner's Answer of May 5, 2011. The applicant is requesting the rejection of claims of the Examiner's Answer to be designated as a new ground of rejection. In the petition, petitioner argues that the citation of the new prior art reference to Durcan (US Publication No. 2004/0093005 A1) to prove the material used in Armstrong et al is "resilient," and, therefore, that the rejection of claims must be designated as a new ground of rejection.

Discussion and Analysis

A review of the final rejection of May 12, 2010 and the Examiner's Answer of May 5, 2011 shows there is no new ground of rejection at all. The rejections of claims were never changed. In the petition, petitioner argues that the examiner's rebuttal arguments cited one new prior art reference, Durcan (US Publication No. 2004/0093005 A1), showing the material used in Armstrong et al is "resilient," and, therefore, that the rejection of the claims constitutes a new ground of rejection.

A careful study of the final rejection of May 12, 2010 and the Examiner Answer of May 5, 2011 does show that the rejection of claims was based on the teaching of a resilient protective sleeve from Armstrong et al. The appellant disagreed with the examiner. The examiner merely cited the prior art reference, Durcan, to show such material as used in the Armstrong reference is "resilient" under MPEP § 2131.01. The Examiner's Answer of May 5, 2011 simply does not show any new grounds of rejection. Petitioner also fails to identify any particular rejection under Section 9 of the Examiner's Answer that constitutes a new ground of rejection. It should be noted that there is no new ground of rejection when the basic thrust of the rejection remains the same such that an appellant has been given a fair opportunity to react to the rejection. It is further noted in the Reply Brief of July 6, 2011 in order to negate the examiner's interpretation of the "resilient" material in Armstrong, the appellant was allowed to enter his new rebuttals of unobviousness. Applicant has fully rebutted the examiner's rebuttal arguments in the Examiner's Answer of May 5, 2011. In the letter of November 30, 2011, the examiner has considered the Reply Brief submitted by the appellant and permitted the entry of the Reply Brief for appeal purposes. Under the circumstances, the appellant had full opportunity to argue and react to the alleged new grounds of rejection.

The examiner's rebuttal arguments, by citing one prior art reference to show the resilient material used in Armstrong et al in the Examiner's Answer, does not alter the grounds of rejection presented in Section 9 of the Examiner's Answer. In this case, the statutory basis for the rejection and the evidence relied upon in support of the rejection remained the same in the final rejection and the Examiner's Answer. In such a circumstance, a change in the discussion of, or rationale in support of, a change of arguments, if any, the examiner's rebuttal arguments do not necessarily constitute a new ground of rejection. See In re Kronig, 539 F.2d 1300, 1302-03, 190 USPQ 425,426-27 (CCPA 1976); MPEP § 1207.03III[1]. Petitioner should also note that even if the suggestion to characterize the examiner's rebuttal arguments in the Examiner's Answer of May 5, 2011 as a new ground of rejection were persuasive, which it is not, the appellant still would have had a fair opportunity to react to these rebuttal arguments in the Reply Brief as permitted under 37 CFR 41.41(a) (1). In this case, the appellant in fact did file a Reply Brief to react to the examiner's rebuttal arguments in the Examiner's Answer. A fair opportunity to react to the examiner's rebuttal arguments was already provided.

Conclusion

For the foregoing reasons, the relief requested by petitioner will not be granted. Specifically, the requested designation of the rejection of claims as new ground of

[1] MPEP 1207.03 III states in pertinent part: There is no new ground of rejection when the basic thrust of the rejection remains the same such that an appellant has been given a fair opportunity to react to the rejection. See In re Kronig, 539 F.2d 1300, 1302-03, 190 USPQ 425, 426-27 (CCPA 1976). Where the statutory basis for the rejection remains the same, and the evidence relied upon in support of the rejection remains the same, a change in the discussion of, or rationale in support of, the rejection does not necessarily constitute a new ground of rejection. Id. at 1303, 190 USPQ at 427 (reliance upon fewer references in affirming a rejection under 35 U.S.C. 103 does not constitute a new ground of rejection).

rejection in the Examiner's Answer of May 5, 20110 cannot be granted. The Reply Brief filed on July 6, 2011 was considered and entered by the examiner. In accordance with the Administrative Remand of March 30, 2012, the case is now being sent to the Board of Appeals and Interference for docketing.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision, 37 CFR 1.181(f). No extension of time under 37 CFR 1. 136(a) is permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181."

Any inquiry regarding this decision should be directed to Henry Yuen, Special Program Examiner, at (571) 272-4856.

The petition is dismissed.

Angela D. Sykes, Director
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

6-28-2011

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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Patent No. : 7,770,483 B2
Serial No. : 11/480,140
Inventor(s) : Alan Timothy Gibbs
Issued : August 10, 2001

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 or 1.323.

The alleged error on the Title page, item [22] the requested corrections are disapproved as being inconsistent with the U.S. practice. Since the division application 11/480,142 was filed under 35 U.S.C. 11(a), the corrections should be made as follows:

--(62) Division of application No. 10/363,012, filed as application No. PCT/GB01/03768 on Aug. 23, 2001, now Pat. No. 7,089,822.—

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 along with fee of $100.00.

Eva James
For Mary Diggs
Decisions & Certificates
Of Correction Branch
(571-272-3422 or (703) 756-1580

Gunther O. Hanke, Esq.
Fulwider Patton LLP
6060 Center Drive, 10th Floor
Los Angeles, CA 90045

ej

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110624

DATE : June 24, 2011

TO SPE OF : ART UNIT 3655

SUBJECT : Request for Certificate of Correction on Patent No.: 7,770,483

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 requested corrections are disapproved as being inconsistent with the U.S. practice. Since the divisional application 11/480,142 was filed under 35 U.S.C. 111(a), the corrections should be made as follows:
--(62) Division of application No. 10/363,012, filed as application No. PCT/GB01/03768 on Aug. 23, 2001, now Pat. No. 7,089,822.--

/DAVID D LE/
Supervisory Patent Examiner.Art Unit 3655
06/24/2011

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MINTZ, LEVIN, COHN, FERRIS,
GLOVSKY AND POPEO, P.C
ONE FINANCIAL CENTER
BOSTON MA 02111

MAILED

NOV 04 2010

OFFICE OF PETITIONS

In re Application of:	:
David G. Hangauer, Jr.	: ON APPLICATION FOR
Application No. 11/480163	: PATENT TERM ADJUSTMENT
Filing or 371(c) Date: 06/29/2006	:
Atty. Docket No.: 28856-505 UTIL	:

This letter is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)," filed June 18, 2010. Applicant requests reconsideration of the patent term adjustment to credit applicant 105 days of reduction in connection with the filing of an Information Disclosure Statement.

The application for patent term adjustment is **GRANTED**.

Because the correction of the adjustment will not result in a change in Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance, the correct Patent Term Adjustment at the time of the mailing of the Notice of Allowance remains zero (0) days (adjustments totaling 134 days less reductions totaling 294 days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On March 22, 2010, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is zero (0) days.

On June 18, 2010, applicant timely submitted the present application for patent term adjustment[1]. Applicants dispute the period of reduction of 105 days in connection with the filing of an Information Disclosure Statement (IDS) on September 15, 2009.

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.

[1] Office records show that the Issue Fee payment was received in the Office on June 18, 2010.

A review of the record reveals that the IDS was filed after Applicant filed a reply to a non-final Office action on June 2, 2009. A further review of the application file reveals that the IDS failed to include a statement that complies with 37 CFR 1.704(d)[2].

However, on petition, Applicant has included the statement as required by 37 CFR 1.704(d). A review of the application history further confirms that the IDS was not otherwise filed under circumstances that constitute a failure to engage in reasonable efforts to conclude prosecution. The period of reduction of 105 days entered in connection with the filing of the IDS is not warranted and is being removed.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Publications Division for issuance of a patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this matter should be directed to Attorney Derek L. Woods at (571) 272-3232.

Anthony Knight
Director
Office of Petitions

Enclosure: Copy of Adjustment PAIR Calculations

[2] 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. 37 CFR 1.704(d) (Emphasis supplied).

Patent Term Adjustments

PTA/PTE Information | Patent Term Adjustment | Patent Term Extension

Application Number*: 11480163 Search | Explanation of PTA Calculation | Explanation of PTE Calculation

PTA Calculations for Application: 11480163

Application Filing Date 06/29/2006	OverLapping Days Between (A and B) or (A and C) 36
Issue Date of Patent 11/23/2010	Non-Overlapping USPTO Delays: 646
A Delays 170	PTO Manual Adjustment 105
B Delays 512	Applicant Delay (APPL) 399
C Delays 0	Total PTA (days) 352

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
110.5	11/23/2010	06/29/2009	PTA36M	PTA 36 Months	512		0
110	11/23/2010	10/18/2010	PTAC	Patent Issue Date Used in PTA Calculation	36		105
112	11/03/2010		P020	Adjustment of PTA Calculation by PTO	105		0
109	10/26/2010		EFDC	Export to Final Data Capture			0
108	10/25/2010		D1935	Dispatch to FDC			0
107	06/30/2010		FIDC	Finished Initial Data Capture			0
106	06/23/2010		PILS	Application Is Considered Ready for Issue			0
105	06/18/2010		N084	Issue Fee Payment Verified			0
104	06/18/2010		PET2	Petition Entered			0
103	06/18/2010		IFEE	Issue Fee Payment Received			0
102	04/16/2010		MM327	Mail Miscellaneous Communication to Applicant			0
101	04/15/2010		M327	Miscellaneous Communication to Applicant - No Action Count			0
98	04/05/2010		CRFT	Sequence Forwarded to Pubs on Tape			0
96	03/22/2010		MN/=.	Mail Notice of Allowance			0
95	03/16/2010		IREV	Issue Revision Completed			0
94	03/16/2010		OVER	Document Verification			0
93	03/16/2010		N/=.	Notice of Allowance Data Verification Completed			0
92	03/16/2010		DOCK	Case Docketed to Examiner in GAU			0
91	03/10/2010		CNTA	Notice of Allowability			0
85	02/05/2010		IDSC	Information Disclosure Statement considered			0
84	02/05/2010	12/16/2009	M844	Information Disclosure Statement (IDS) Filed		51	81
83	02/05/2010		WIDS	Information Disclosure Statement (IDS) Filed			0
82	01/26/2010		FWDX	Date Forwarded to Examiner			0
81	12/16/2009		A...	Response after Non-Final Action			0
86	11/05/2009		IDSC	Information Disclosure Statement considered			0
80	11/05/2009		M844	Information Disclosure Statement (IDS) Filed			0
79	11/05/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
75	09/16/2009		MCTNF	Mail Non-Final Rejection			0
87	09/15/2009		IDSC	Information Disclosure Statement considered			0
78	09/15/2009	06/02/2009	M844	Information Disclosure Statement (IDS) Filed		105	68
74	09/15/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
73	09/14/2009		CTNF	Non-Final Rejection			0
69	06/30/2009		FWDX	Date Forwarded to Examiner			0
72	06/02/2009		IDSC	Information Disclosure Statement considered			0
68	06/02/2009	05/02/2009	A...	Response after Non-Final Action		21	60
67	06/02/2009		XT/G	Request for Extension of Time - Granted			0
66	06/02/2009		RCAP	Reference capture on IDS			0
65	06/02/2009		M844	Information Disclosure Statement (IDS) Filed			0
64	06/02/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
77	02/04/2009		M844	Information Disclosure Statement (IDS) Filed			0
71	02/04/2009		IDSC	Information Disclosure Statement considered			0
63	02/04/2009		LET.	Miscellaneous Incoming Letter			0
62	02/04/2009		EIDS.	Electronic Information Disclosure Statement			0
61	02/04/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
60	02/02/2009		MCTNF	Mail Non-Final Rejection			0
59	01/30/2009		CTNF	Non-Final Rejection			0
56	11/21/2008		FWDX	Date Forwarded to Examiner			0
55	11/12/2008	09/12/2008	A...	Response after Non-Final Action		61	52
54	11/12/2008		XT/G	Request for Extension of Time - Granted			0
76	11/06/2008		M844	Information Disclosure Statement (IDS) Filed			0
58	11/06/2008		IDSC	Information Disclosure Statement considered			0
53	11/06/2008		WIDS	Information Disclosure Statement (IDS) Filed			0
52	06/12/2008	02/29/2008	MCTNF	Mail Non-Final Rejection	104		41
51	06/09/2008		CTNF	Non-Final Rejection			0
42	05/27/2008		FWDX	Date Forwarded to Examiner			0
48	03/28/2008		IDSC	Information Disclosure Statement considered			0
44	03/28/2008		RCAP	Reference capture on IDS			0
43	03/28/2008	10/29/2007	M844	Information Disclosure Statement (IDS) Filed		151	41
38	03/28/2008		WIDS	Information Disclosure Statement (IDS) Filed			0
37	01/03/2008		PG-ISSUE	PG-Pub Issue Notification			0
41	10/29/2007		ELC.	Response to Election / Restriction Filed			0
36	09/28/2007	08/29/2007	MCTRS	Mail Restriction Requirement	30		-1
35	09/27/2007		CTRS	Requirement for Restriction / Election			0
50	07/30/2007		IDSC	Information Disclosure Statement considered			0
34	07/30/2007		M844	Information Disclosure Statement (IDS) Filed			0
33	07/30/2007		WIDS	Information Disclosure Statement (IDS) Filed			0
32	06/21/2007		DOCK	Case Docketed to Examiner in GAU			0
49	03/28/2007		IDSC	Information Disclosure Statement considered			0
31.7	03/28/2007		M844	Information Disclosure Statement (IDS) Filed			0
31	03/28/2007		WIDS	Information Disclosure Statement (IDS) Filed			0
30	11/06/2006		TSSCOMP	IFW TSS Processing by Tech Center Complete			0
27	10/24/2006		WRDIPE	Application Return from OIPE			0
26	10/24/2006		RDIPE	Application Return TO OIPE			0
25	10/24/2006		WRDIPE	Application Return from OIPE			0
24	10/24/2006		RDIPE	Application Return TO OIPE			0
23	10/24/2006		WRDIPE	Application Return from OIPE			0
22	10/24/2006		RDIPE	Application Return TO OIPE			0
21	10/24/2006		WRDIPE	Application Return from OIPE			0
20	10/24/2006		COMP	Application Is Now Complete			0
19	10/24/2006		W/OA	Pre-Exam Office Action Withdrawn			0
18	10/24/2006		RDIPE	Application Return TO OIPE			0
17	10/23/2006		WRDIPE	Application Return from OIPE			0
16	10/23/2006		RDIPE	Application Return TO OIPE			0
15	10/23/2006		OIPE	Application Dispatched from OIPE			0
14	10/23/2006		COMP	Application Is Now Complete			0
9	10/05/2006		CRFF	Error(s) in CRF Corrected by STIC			0
29	09/20/2006		C614	New or Additional Drawing Filed			0
28	09/20/2006		A.PE	Preliminary Amendment			0
13	09/20/2006		ADDFLFEE	Additional Application Filing Fees			0
12	09/20/2006		SEQLIST	A set of symbols and procedures, provided to the PTO on a set of computer listings, that describe in			0
11	09/20/2006		OATHDECL	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic			0
10	09/20/2006		CORRDRW	Applicant has submitted new drawings to correct Corrected Papers problems			0
8	07/21/2006		L128	Cleared by LAR (LARS)			0
7	07/20/2006		INCD	Notice Mailed--Application Incomplete--Filing Date Assigned			0
5	07/19/2006		L198	Referred to Level 2 (LARS) by OIPE CSR			0
4	07/13/2006		SCAN	IFW Scan & PACR Auto Security Review			0
3	07/12/2006		CRFE	CRF Is Good Technically / Entered into Database			0
6	06/29/2006		CRFL	CRF Disk Has Been Received by Preexam / Group / PCT			0
2	06/29/2006		CRFL	CRF Disk Has Been Received by Preexam / Group / PCT			0
1	06/29/2006		IEXX	Initial Exam Team an			0

Export to: Excel

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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON DC 20037

MAILED
FEB 15 2011
OFFICE OF PETITIONS

In re Patent No. 7,588,237	:	
Issue Date: September 15, 2009	:	
Application No. 11/480,283	:	DECISION ON PETITION
Filed: June 30, 2006	:	
Attorney Docket No. Q105074	:	

This is a decision on the petition, filed, October 15, 2010, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee's name on the Fee(s) Transmittal form PTOL-85(b) by way of a certificate of correction in the patent to be issued from the above-identified application.

The request is **GRANTED**.

Petitioner states that the correct assignee's name is "NEOPOST S.A." and that the incorrect assignee's name was included on the Fee(s) Transmittal form PTOL-85(b) at the time of payment of the issue fee. Accordingly, petitioner requests that a certificate of correction be issued to reflect the correct assignee on the front page of the Letters Patent in the patent to be issued from the application.

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

The request was accompanied by a certificate of correction (and fee) as required by 3.81(b). Further, Office assignment records reflect that "NEOPOST S.A." is the assignee of record. Accordingly, as the request complies with the provisions of 37 CFR 3.81(b), it would be appropriate for a certificate of correction to be processed after issuance of this application into a patent.

Inquiries concerning this decision should be directed to the Michelle R. Eason at (571) 272-4231. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

This matter is being referred to the Certificates of Correction Branch for processing of a certificate of correction after issuance of this application into a patent.

Thurman Page
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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NEIL A. DUCHEZ (VELOCYS)
RENNER, OTTO, BOISSELLE & SKLAR, LLP
1621 EUCLID AVENUE
19TH FLOOR
CLEVELAND, OH 44115

MAILED
FEB 25 2011
OFFICE OF PETITIONS

In re Application of :
Anna Lee Tonkovich et al :
Application No. 11/480,348 :
Filed: June 30, 2006 :
Attorney Docket No. VELOP0127USB

ON PETITION

This is a decision on the petition, filed February 23, 2011 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on January 28, 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 1621 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the amendment previously filed January 27, 2011.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5/6/10

TO SPE OF : ART UNIT 1648 Salimi Ali

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/480387 Patent No.: 7465455

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.

- [x] **Approved** — **All** changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: _____

/Zachariah Lucas/ — **SPE**

1648 — **Art Unit**

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Locke Lord Bissell & Liddell LLP
Attn: IP Docketing
Three World Financial Center
New York NY 10281-2101

MAILED
SEP 24 2010
OFFICE OF PETITIONS

In re Application of :
Mika Forssell :
Application No. 11/480,495 : DECISION ON PETITION
Filed: July 5, 2006 :
Attorney Docket No. 1004289.274US (4208-4319) :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 26, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the final Office action mailed, November 27, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on February 28, 2010. A Notice of Abandonment was mailed on July 8, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a RCE (Request for Continued Examination, with the required fee of $810, (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay. Accordingly, the RCE is accepted as being unintentionally delayed.

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 2617 for appropriate action by the Examiner in the normal course of business on the RCE received July 26, 2010.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Elliot L. Frank
701 8th Street NW, Suite 700
Washington, DC 20001

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CHRISTIE, PARKER & HALE, LLP
PO BOX 7068
PASADENA CA 91109-7068

MAILED

NOV 14 2011

OFFICE OF PETITIONS

In re Application of	:	
Myoung-Seop Song, et al.	:	
Application No. 11/480,646	:	DECISION GRANTING PETITION
Filed: July 3, 2008	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 57003/P849	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed November 11, 2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on September 23, 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 2628 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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CHRISTIE, PARKER & HALE, LLP
PO BOX 7068
PASADENA CA 91109-7068

MAILED
NOV 15 2011
OFFICE OF PETITIONS

In re Application of	:	
Song et al	:	
Application No. 11/480,730	:	DECISION GRANTING PETITION
Filed: July 3, 2006	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 56906/P849	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed November 11, 2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on September 23, 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 2628 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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601 W RIVERSIDE
SUITE 1400
SPOKANE, WA 99201

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MAR 08 2011

OFFICE OF PETITIONS

In re Application of	:	
Cohen et al.	:	DECISION ON PETITION
Application No. 11/480,773	:	TO WITHDRAW
Filed: June 30, 2006	:	FROM RECORD
Attorney Docket No. QQ1 – 0169US	:	

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 is an outstanding Final Office action mailed February 2, 2011, which requires a reply from the applicant.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-6059. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

A Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

cc: MARGARET ANDERSON
106 E. 6TH STREET, SUITE 900
AUSTIN TX 78701

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SUITE 1400
SPOKANE, WA 99201

MAILED

MAR 08 2011

OFFICE OF PETITIONS

In re Application of	:	
Jung et al.	:	DECISION ON PETITION
Application No. 11/480,782	:	TO WITHDRAW
Filed: June 30, 2006	:	FROM RECORD
Attorney Docket No. QQ1 – 0158US	:	

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 is an outstanding Non-final Office action mailed January 26, 2011, which requires a reply from the applicant.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-6059. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

cc: MARGARET ANDERSON
106 E. 6TH STREET, SUITE 900
AUSTIN TX 78701

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SUITE 1400
SPOKANE, WA 99201

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MAR 14 2011

OFFICE OF PETITIONS

In re Application of	:	
JUNG, et al	:	
Application No. 11/480,819	:	DECISION ON PETITION
Filed: June 30, 2006	:	TO WITHDRAW
Attorney Docket No. QQ1-0038US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 25, 2011.

The request is **NOT APPROVED.**

The request to withdraw from record cannot be approved because the request to change the correspondence address is not accompanied by a power of attorney nor is the correspondence address that of an assignee of the entire interest who has been properly made of record under 37 CFR 3.71 or the first named inventor.

All future communications from the Office will continue to be directed to the above-identified address until otherwise properly notified.

Telephone 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: MARGARET ANDERSON
106 E. 6TH STREET, SUITE 900
AUSTIN TX 78701

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OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA VA 22314

MAILED

AUG 09 2010

OFFICE OF PETITIONS

In re Application of	:	
Michimasa Takahashi, et al.	:	
Application No. 11/480,824	:	DECISION GRANTING PETITION
Filed: July 6, 2006	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 293444US40	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed August 9, 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 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 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 2826 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/AMW
April M. Wise
Petitions Examiner
Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Decision Date : June 3,2011

In re Application of :

Joshua Wachman

Application No : 11480859

Filed : 06-Jul-2006

Attorney Docket No : 2694-0002

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 3,2011

The request is **APPROVED**

The request was signed by Brian Siritzky (registration no. 37497) on behalf of all attorneys/agents associated with Customer Number 42624 . All attorneys/agents associated with Customer Number 42624 have been withdrawn.

Since there are no remaining attorneys of record, all future communications from the Office will be directed to the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71, with Customer number 24392 .

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	11480859
Filing Date	06-Jul-2006
First Named Inventor	Joshua Wachman
Art Unit	3626
Examiner Name	CHARLES COLEMAN
Attorney Docket Number	2694-0002
Title	Medication compliance systems, methods and devices with configurable and adaptable escalation engine

◉ Please withdraw me as attorney or agent for the above identified patent application and the practitioners of record associated with Customer Number: 42624

The reason(s) for this request are those described in 37 CFR:

10.40(b)(4)

Certifications

☒ I/We have given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intend to withdraw from employment

☒ I/We have delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled

☒ I/We have notified the client of any responses that may be due and the time frame within which the client must respond

Change the correspondence address and direct all future correspondence to:
The address of the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71, associated with Customer Number: 24392

I am authorized to sign on behalf of myself and all withdrawing practitioners.

Signature	/Brian Siritzky/
Name	Brian Siritzky
Registration Number	37497

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Paper No.

SHUTTLEWORTH & INGERSOLL, P.L.C.
115 3RD STREET SE, SUITE 500
P.O. BOX 2107
CEDAR RAPIDS IA 52406

MAILED
JAN 06 2012
OFFICE OF PETITIONS

In re Application of :
Zheng :
Application No. 11/480,861 :
Patent No.: 7,559,614 : DECISION ON PETITION
Filed: July 6, 2006 : PURSUANT TO
Issued: July 14, 2009 : 37 C.F.R. § 1.28(c)
Attorney Docket No.: 17157- :
0003-1 :
Title: TOOL CABINET :

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 22, 2011. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 C.F.R. § 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).

The Office no longer investigates or rejects original or reissue applications under 37 C.F.R. § 1.56. 1098 Off. Gaz. Pat. Office 502 (January 3, 1989). Therefore, nothing in this notice is intended to imply that an investigation was done.

Petitioner has identified the particular type of fees that were erroneously paid as a small entity, when the small entity fees were actually paid, the small entity fees that were actually paid, the deficiency owed amounts, and the total deficiency payment owed.

The deficiency payment in the amount of $2240.00 will be charged to Deposit Account No. 50-4904 in due course.

Your fee deficiency submission pursuant to 37 C.F.R. § 1.28(c) is hereby accepted. The petition is **GRANTED** accordingly.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

It is noted that the address listed on the petition differs from the address of record. The application file does not indicate a change of correspondence address has been filed in this case, although the address given on the petition differs from the address of record. If Petitioner desires to receive future correspondence regarding this patent, the change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to the address which appears on the petition. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary. Petitioner will not receive future correspondence related to this patent unless Change of Correspondence Address, Patent Form (PTO/SB/123) is submitted for the above-identified patent. For Petitioner's convenience, a blank Change of Correspondence Address, Patent Form (PTO/SB/123), may be found at http://www.uspto.gov/web/forms/sb0123.pdf.

If appropriate, a change of fee address (form PTO/SB/47) and a request for customer number (form PTO/SB/125) should be filed in accordance with Manual of Patent Examining Procedure, section 2540. A blank fee address form may be found at http://www.uspto.gov/web/forms/sb0047.pdf.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.

Paul Shanoski
Senior Attorney
Office of Petitions

cc: SHUTTLEWORTH & INGERSOLL, P.L.C.
115 3RD STREET SE, SUITE 500
CEDAR RAPIDS IA 52401

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OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA, VA 22320-4850

MAILED

OCT 04 2010

OFFICE OF PETITIONS

In re Application of :
Tomoki Kubota, et al. :
Application No.: 11/481,024 : ON PETITION
Filed: July 6, 2006 :
Attorney Docket No.: 128432 :

This is a decision on the petition, filed October 4, 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 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 3663 for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement (IDS).

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER LP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

MAILED

JAN 31 2011

OFFICE OF PETITIONS

In re Patent No. 7,626,601	: DECISION ON REQUEST
Issued: December 1, 2009	: FOR RECONSIDERATION
Application No. 11/481,063	: OF PATENT TERM ADJUSTMENT
Filed: July 6, 2006	: AND
Attorney Docket No. 09812.0804	: NOTICE OF INTENT TO ISSUE
	: CERTIFICATE OF CORRECTION

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT-POST GRANT" filed December 31, 2009, requesting that the patent term adjustment determination for the above-identified patent be changed from 574 days to 722 days. Applicant requests this correction in part on the basis that the Office will take in excess of three years to issue this patent and in light of the court decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. September 30, 2008).[1]

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is adjusted by seven hundred twenty-two (722) days and is **GRANTED**.

The Office acknowledges the authorization to charge the $200.00 fee set forth in 37 CFR 1.18(e) to deposit account no. 06-0916.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **seven hundred twenty-two (722)** days.

Telephone inquiries specific to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

---

[1]Reconsidered in light of the Court of Appeals for the Federal Circuit's decision in *Wyeth v. Kappos*, 2009-1120 (Fed. Cir. 1-7-2010).

DRAFT

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,626,601 B2

DATED : December 1, 2009

INVENTOR(S) : Toru Nishi

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 (574) days

Delete the phrase "by 574 days" and insert – by 722 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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DELPHINE M. JAMES
2656 SOUTH LOOP WEST #170
HOUSTON TX 77054

MAILED

AUG 01 2011

OFFICE OF PETITIONS

In re Application of	:	
Kazem Azoidi et al.	:	
Application No. 11/481,125	:	DECISION ON PETITION
Filed: July 5, 2006	:	
Attorney Docket No.	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 6, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely reply to the Notice Requiring Excess Claims Fees mailed March 12, 2010, which set a shortened statutory period for reply of one (1) month or (3) thirty days. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on April 13, 2010. A Notice of Abandonment was mailed on March 10, 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 excess claim fee, (2) the petition fee of $810, and (3) a proper statement of unintentional delay. Accordingly, the fee is accepted as being unintentionally delayed.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $245 extension of time fee submitted on June 14, 2010 was subsequent to the maximum extendable period for reply, this fee is unnecessary. If petitioner wishes to do so, a request for a refund should be made in writing and addressed to: Mail Stop 16, Director of the U.S. Patent and Trademark Office, P. O. Box 1450, Alexandria, VA 22313-1450. Include a copy of this decision.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

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 July 6, 2011.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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WOODCOCK WASHBURN LLP
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA PA 19104-2891

MAILED

MAR 28 2011

OFFICE OF PETITIONS

In re Application of

HAHN, Michael
Application No. 11/481,214
Filed: July 05, 2006
Attorney Docket No. **MHHN-0002**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 25, 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 Barry Kaplan on behalf of all attorneys of record who are associated with customer No. 30184. All attorneys/agents associated with the Customer Number 30184 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the inventor Michael Hahn at the address indicated below. There is an outstanding Office action mailed November 12, 2010 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions

cc: **MICHAEL HAHN**
10812 LASALINAS CIRCLE
BOCA RATON FL 33428

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

RICHARD L. MILLER
12 PARKSIDE DRIVE
DIX HILLS NY 11746-4879

MAILED
SEP 10 2010
OFFICE OF PETITIONS

In re Application of :
Albert CHAO et al. :
Application No. 11/481,301 : ON PETITION
Filed: July 5, 2006 :
Attorney Docket No. CHAA22R :

This is a decision on the renewed petition under 37 CFR 1.181, filed May 24, 2010, requesting that a response to the Notification of Non-Compliant Appeal Brief (Notification) mailed June 8, 2009 be accepted as if it were timely received due to petitioner's failure to receive the Notification.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a proper reply in a timely manner to the Notification mailed June 8, 2009, which set a shortened statutory period for reply of one (1) month or thirty days, whichever is longer. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on July 9, 2009.

To support this assertion petitioner has submitted: (1) a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received; and (2) a copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed. Accordingly, it is concluded that petitioner never received the Notification mailed June 8, 2009.

In view of the above, the holding of abandonment is hereby withdrawn, and the application restored to pending status.
Petitioner's mailing address has been changed to include petitioner's Zip + 4 code. However, petitioner should be aware that petitioner's Customer No. 41681 does not include a Zip + 4 code. Should petitioner desire to have a Zip + 4 code associated with his Customer Number a Request

for Customer Number Data Change, PTO/SB/124A should be filed. A copy of this form has been enclosed for petitioner's convenience.

Telephone inquiries concerning this decision should be directed the undersigned at (571) 272-7099.

The application file is being referred to the Board of Patent Appeals and Interferences for appropriate action on petitioner's reply to the Notification filed February 8, 2010.

David Bucci
Petitions Examiner
Office of Petitions

Enclosure: Request for Customer Number Data Change, PTO/SB/124A

PTO/SB/124A (12-08)
Approved for use through 11/30/2011. OMB 0651-0035
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 Customer Number Data Change

Address to:
Mail Stop EBC
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

To the Commissioner for Patents:

Please record the following data changes to **Customer Number**:

☐ Please change Address to:

Firm or Individual Name					
Address					
City		**State**		**Zip**	
Country					
Telephone		**Email**			

☐ Please **delete** the following practitioner registration number(s) from the Customer Number indicated above:

☐ Please **add** the following practitioner registration number(s) to the Customer Number above:

☐ Additional practitioner registration numbers are listed on supplemental sheet(s) attached hereto (PTO/SB/124B or equivalent)

Request Submitted by: (must be a person, e.g. registered practitioner, associated with the customer number shown above)

Firm Name (if applicable)			
Signature			
Name of Person Submitting request		Registration No.	
Telephone Number		Date	

This collection of information is required by 37 CFR 1.33. 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 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: Mail Stop EBC, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 (1-800-786-9199) and select option.

PTO/SB/124B (12-08)
Approved for use through 11/30/2011. OMB 0651-0035
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 Customer Number Data Change	**Practitioner Registration Number Supplemental Sheet**
	Page of Pages

To the Commissioner for Patents:

Please record the following data Changes to **Customer Number:**

☐ Please **delete** the following practitioner registration number(s) from the Customer Number indicated above:

☐ Please **add** the following practitioner registration number(s) to the Customer Number indicated above:

Firm Name			
Date		☐	Additional supplemental sheet(s) attached hereto

This collection of information is required by 37 CFR 1.33. 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 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: Mail Stop EBC, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 (1-800-786-9199) and select option 2.

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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PATENT DEPT - INTUITIVE SURGICAL OPERATIONS
1266 KIFER RD BLDG 101
SUNNYVALE CA 94086

MAILED
MAY 05 2011
OFFICE OF PETITIONS

In re Application of	:	
Belson et al.	:	
Application No. 11/481,483	:	DECISION ON PETITION
Filed: July 5, 2006	:	
Attorney Docket No. 11042-704.326	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 14, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed March 30, 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 1, 2010. A Notice of Abandonment was mailed February 14, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an 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 the undersigned at (571) 272-6059.

This application is being referred to Technology Center AU 3779 for appropriate action by the Examiner in the normal course of business on the reply received April 14, 2011.

A. Kelley Collier

Alicia Kelley-Collier
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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HEWLETT-PACKARD COMPANY
INTELLECTUAL PROPERTY ADMINISTRATION
3404 E. HARMONY ROAD
MAIL STOP 35
FORT COLLINS, CO 80528

MAILED

AUG 3 1 2010

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Sean Spillane :
Application No. 11/481,716 :
Filed: July 6, 2006 :
Attorney Docket No.: 200504610-1 :

This is a decision in response to the petition, filed April 30, 2010, under the provisions of 37 CFR 1.181 (no fee) to withdraw the holding of abandonment of the above-identified application.

The petition under 37 CFR 1.181 is **DISMISSED**.

The application was held abandoned for a failure to timely pay the issue fee on or before March 9, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed December 9, 2009. While the record is clear that form PTOL-85, Part B – Fee(s) Transmittal was filed on March 1, 2010, the form failed to include the intended method for payment of the requisite issue fee. On March 29, 2010, a Notice of Abandonment was mailed. In response, on April 30, 2010 the present petition was filed, wherein petitioner argues that the abandonment should be withdrawn. It is noted that a petition to revive under the provisions of 37 CFR 1.137(b) was also filed.

Petitioner explains that while the Issue Fee Transmittal form failed to include a deposit account number in which to charge the fee, the application contained a general authorization to charge fees "at any time during the pendency of this application..." Further, petitioner points out that amendments filed September 6, 2007; February 7, 2008; July 31, 2008; January 16, 2009; June 3, 2009; and November 16, 2009, as well as the respective transmittal letters for each, contained the same clause recited in the Patent Application Transmittal Letter.

A review of the above noted communications confirms that each contained a general authorization to change any fee at any time during the pendency of the application to a deposit account, namely Deposit Account No. 08-2025. Unfortunately, at the time when the issue fee was due, the person(s) giving such authorization to charge the deposit account was not an attorney of record or an authorized user of the deposit account in question. Consequently, the deposit account could not be charged and the application subsequently became abandoned but operation of law on March 10, 2010.

Since the application was properly held abandoned, the request to withdraw the holding of abandonment cannot be granted.

A decision on the petition to revive under the provisions of 37 CFR 1.137(b) follows. The requisite petition fee is being charged to counsel's deposit account as authorized.

A grantable petition under 37 CFR 1.137(b)[1] must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c).

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 payment of the issue fee of $1,510; (2) the petition fee of $1,620; and (3) an adequate statement of unintentional delay.

Therefore, the petition under 37 CFR 1.137(b) is **GRANTED**.

The application is being referred to the Office of Data Management to be processed into a patent.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing as a patent should be directed to (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] As amended effective December 1, 1997. See Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53194-95 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 119-20 (October 21, 1997).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : September 13, 2010

TO SPE OF : ART UNIT 2123
SUBJECT : Request for Certificate of Correction for Appl. No/11/481747/pat. 7664622

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Magdalene Talley

Certificates of Correction Branch

571-272-0423 _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☑ **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

PAUL RODRIGUEZ
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

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Kraguljac & Kalnay, LLC - Oracle
4700 Rockside Road
Summit One, Suite 510
Independence OH 44131

MAILED
OCT 12 2010
OFFICE OF PETITIONS

In re Application of:	:	
Liao et al.	:	
Application No. 11/481750	:	DECISION DISMISSING
Filing or 371(c) Date: 07/06/2006	:	PETITION UNDER
Title of Invention:	:	37 CFR 1.47(a)
SPELLING CORRECTION WITH	:	
LIAOALPHAGRAMS AND INVERTED INDEX	:	

This is in response to a "Petition Under 37 CFR 1.47 for Proof of Unavailability of Joint Inventor," filed August 16, 2006, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor(s). The petition is properly treated under 37 CFR 1.47(a).

The petition is **dismissed**.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under [insert the applicable code section]"; should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on July 6, 2006, along with an oath or declaration executed by one of two inventors. The Office mailed a Notice to File Missing Parts of Nonprovisional Application, on July 31, 2006, requiring *inter alia*, a properly signed oath or declaration.

Petitioner files the present petition in response to the Notice, and provides that diligent efforts have been made to locate the unavailable inventor. Specifically, petitioner provides that the non-signing inventor was sent a hard copy of the application, declaration and assignment to his last known address; however, the current resident informed petitioner that the non-signing inventor no longer resided there, and the current resident had no further information concerning the whereabouts of the non-signing inventor. In addition, a complete copy of the application was sent via email to the non-signing inventor on four separate occasions; however, there was no

reply. Finally, a phone call to the non-signing inventor went unanswered, and several subsequent attempts to contact the nonsigning inventor were unsuccessful.

Applicable Law, rules and MPEP

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. Applicant lacks item (1) set forth above.

As to item (1), the MPEP provides:

> 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.
>
> 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.

Petitioner asserts that efforts to locate the nonsigning inventor included mailing a copy of the application to the last known address of the nonsigning inventor, sending emails to the email address of the nonsigning inventor, and calling the non-signing inventor. The current resident informed petitioner that the non-signing inventor no longer resided there, and the current resident had no further information concerning the whereabouts of the non-signing inventor. Petitioner has not averred that a search for the nonsigning inventor was undertaken. Also, no response to the emails was received. As such, there is no evidence that any of the emails resulted in the nonsigning inventor receiving a copy of the application. Petitioner is cautioned that receipt of an application via email transmission must be demonstrated by the petitioner before a petition may be granted. While receipt of an email may be confirmed by the sender, receipt of an email attachment may not be confirmed by the sender.

Here, because the whereabouts of the non-signing inventor are not known, at the very least, an Internet search, or a search of telephone directories should be undertaken of the regions where it is suspected the non-signing inventor may reside. Copies of the results of such searches must be referred to in any renewed petition. It is important that the forthcoming communication contain statements of fact from a person with first hand knowledge of the facts relied upon to establish

that a diligent effort was made to locate the inventor, as opposed to conclusions. *See*, MPEP § 409.03(d).

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

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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4700 Rockside Road
Summit One, Suite 510
Independence OH 44131

MAILED

NOV 09 2010

OFFICE OF PETITIONS

In re Application of:	:	
Liao et al.	:	
Application No. 11/481750	:	DECISION GRANTING
Filing or 371(c) Date: 07/06/2006	:	PETITION UNDER
Title of Invention:	:	37 CFR 1.47(a)
SPELLING CORRECTION WITH	:	
LIAOALPHAGRAMS AND INVERTED INDEX	:	

This is a decision in response to a renewed petition under 37 CFR 1.47, filed October 21, 2010, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor(s). The renewed petition is properly treated under 37 CFR 1.47(a).

The petition is **granted**.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

Petitioner has shown that the non-signing inventor, Shamim Alpha, could not be found or reached after diligent effort.

As provided in Rule 1.47(a), this Office will forward notice of this application's filing to the non-signing inventor at the addresses given in the Petition. Notice of the filing of this reissue application will also be published in the Official Gazette.

The application file is being referred to Publishing Division for processing into a patent.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3232.

/DLW/

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MR. SHAMIM A. ALPHA
154 ROCK HARBOR LANE
FOSTER CITY, CA 94404

MAILED

NOV 09 2010

OFFICE OF PETITIONS

In re Application of:	:	
Liao et al.	:	
Application No. 11/481750	:	LETTER
Filing or 371(c) Date: 07/06/2006	:	
Title of Invention:	:	
SPELLING CORRECTION WITH	:	
LIAOALPHAGRAMS AND INVERTED INDEX	:	

Dear Mr. Alpha:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3232. 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 Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

/DLW/

Derek L. Woods
Attorney
Office of Petitions

CC: Kraguljac & Kalnay, LLC - Oracle
4700 Rockside Road
Summit One, Suite 510
Independence OH 44131

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: PANZ3001/JJC	Patent Number: 7658398
Filing Date (or 371(b) or (f) Date): 2006-07-07	Issue Date: 2010-02-09
First Named Inventor: Ezio Panzeri	
Title: ROTATING CONNECTION SYSTEM WITH BRAKING MEANS	

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 2010-08-05
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.

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BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA, VA 22314-1176

Mail Date: 08/13/2010

Applicant	: Ezio Panzeri	: DECISION ON REQUEST FOR
Patent Number	: 7658398	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/481,920	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/07/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **776** 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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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON VA 20195

MAILED
APR 27 2011
OFFICE OF PETITIONS

In re Application of	:	
Tilman Liebchen	:	
Application No. 11/481,930	:	DECISION GRANTING PETITION
Filed: July 7, 2006	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 46500-000430/US/05	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, April 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 April 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 2626 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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SUNG I. OH, PROFESSIONAL LAW CORPORATION
710 QUAIL VALLEY LANE
WEST COVINA, CA 91791

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OCT 18 2010

OFFICE OF PETITIONS

ON PETITION

In re Application of
Steven L. Neel
Application No. 11/481,985
Filed: July 6, 2006
Attorney Docket No. 2162685-A

This is a decision on the petition under 37 CFR 1.137(b), filed August 9, 2010, to revive the above-identified application.

The petition is **DISMISSED.**

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "**Renewed Petition under 37 CFR 1.137(b)**." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lack(s) item(s) (1).

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of October 1, 2009. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). *See* MPEP 711.03(c)(III)(A)(2). Since the amendment submitted does not *prima facie* place the application in condition for allowance, the reply required must be a Notice of Appeal (and appeal fee), RCE, or the filing of a continuing application under 37 CFR 1.53(b).

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
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By facsimile: (571) 273-8300
ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

Attachment: Advisory Action

Advisory Action Before the Filing of an Appeal Brief	Application No. 11/481,985	Applicant(s) NEEL, STEVEN L.	
	Examiner WERNER GARNER	Art Unit 3714	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 09 August 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: 2-6.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/WERNER GARNER/
Examiner, Art Unit 3714

Continuation of 11. does NOT place the application in condition for allowance because: Applicant's remarks fail to put the application in condition for allowance. Examiner maintains his rejection. In response to applicant's argument that there is no teaching, suggestion, or motivation to combine the references, the examiner recognizes that obviousness may be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See In re Fine, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988), In re Jones, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992), and KSR International Co. v. Teleflex, Inc., 550 U.S. 398, 82 USPQ2d 1385 (2007). In this case, one of ordinary skill in the art is aware of the statistics used to gauge the skills of baseball players, including pop time.

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710 QUAIL VALLEY LANE
WEST COVINA CA 91791

MAILED
NOV 22 2010
OFFICE OF PETITIONS

In re Application of	:	
Ricks	:	
Application No.: 11/482,007	:	ON PETITION
Filed: July 6, 2006	:	
Attorney Docket No: 2136323A	:	

This is a decision on the petition under 37 CFR §1.137(b), filed October 12, 2010, to revive the above-identified application.

The petition is **dismissed**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition" under 37 CFR 1.137(b)."

This application became abandoned for failure to respond in a timely manner to the Notice of Allowance and Issue Fee Due mailed June 2, 2009. The notice set a statutory period for reply of three months from its mailing date. No response was received within the allowable period, and the application became abandoned on September 3, 2009. A Notice of Abandonment was mailed September 3, 2009.

Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a non-provisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee, or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

The instant petition does not satisfy items (1) and (2) above.

As to item (1), the Notice of Allowance and Issue Fee Due required payment of the issue and publication fees. The credit card petitioner provided for payment of the fees was declined. Accordingly, petitioner has not provided the reply required by 37 CFR 1.137(b). The renewed petition must be accompanied by a proper response to the Notice of Allowance and Issue Fee Due.

As to item (2), the petition fee of $810.00 did not accompany the petition as the credit card presented was declined. The renewed petition must be accompanied by the petition fee.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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In re Application of :
Ricks :
Application No.: 11/482,007 : ON PETITION
Filed: July 6, 2006 :
Attorney Docket No: 2136323A

This is a decision on the renewed petition under 37 CFR §1.137(b), May 9, 2011, to revive the above-identified application.

The petition is **granted**.

This application became abandoned for failure to respond in a timely manner to the Notice of Allowance and Issue Fee Due mailed June 2, 2009. The notice set a statutory period for reply of three months from its mailing date. No response was received within the allowable period, and the application became abandoned on September 3, 2009. A Notice of Abandonment was mailed September 3, 2009.

The issue fee and publication fee were received May 9, 2011.

Form PTOL-85B, filed May 9, 2011, is noted.

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 address cited on the petition differs from the address of record. 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 is being directed to the Office of Data Management for further processing.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Cc:
Paul Ricks
16625 Forest Green Terrace
Elbert, CO 80106

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SUNG I. OH, PROFESSIONAL LAW CORPORATION
710 QUAIL VALLEY LANE
WEST COVINA, CA 91791

MAILED
JUN 17 2011
OFFICE OF PETITIONS

In re Application of **Paul C. RICKS** Application No. 11/482,007 Filed: July 6, 2006 Attorney Docket No. **2136323-A**	DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 22, 2011 and re-submitted May 9, 2011.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request was signed by Sung Oh 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 sole named signing inventor at the address below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7253.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

cc: **PAUL C. RICKS**
16625 FOREST GREEN TR
ELBERT, CO 80106-8937

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

PAUL C. RICKS
16625 FOREST GREEN TR
ELBERT, CO 80106-8937

MAILED

DEC 08 2011

OFFICE OF PETITIONS

In re Application of:	:	
PAUL C. RICKS	:	
Pat. Num.: 7,965,254	:	
Issue Date: 06/21/2011	:	
Application No. 11/482007	:	ON PETITION
Title of Invention:	:	
TV SATELLITE DISH STAND	:	

This is a decision on the Petition Under 37 C.F.R. § 1.182, filed November 18, 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)

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.
11/482,032	07/07/2006	Brian C. Tarbox	333307.00007	5455

27160 7590 05/09/2011
KATTEN MUCHIN ROSENMAN LLP
(C/O PATENT ADMINISTRATOR)
2900 K STREET NW, SUITE 200
WASHINGTON, DC 20007-5118

EXAMINER
COLBERT, ELLA

ART UNIT	PAPER NUMBER
3694	

MAIL DATE	DELIVERY MODE
05/09/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAY - 9 2011

Katten Muchin Rosenman LLP
(c/o Patent Administrator)
2900 K Street NW, Suite 200
Washington, DC 20007-5118

In re application of Tarbox et al. Application No. 11/482,032 Filed: July 7, 2006 Atty Docket No. 333307.00007 For: SYSTEMS AND METHODS FOR IMPROVING INVESTMENT PERFORMANCE	**DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 CFR 1.102**

This is in response to the petition filed on July 7, 2006 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII. The delay in treating this petition is regretted.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references.

Since all of the requirements for special status under MPEP § 708.02 VIII have been met, the petition is **GRANTED**.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the

application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED**.

Any inquiry regarding this decision should be directed to Teri Luu at (571) 272-7045.

/Teri P. Luu/
Teri P. Luu
Quality Assurance Specialist
Technology Center 3600

TL/tl: 05/05/11

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DAVIDSON BERQUIST JACKSON & GOWDEY LLP
4300 WILSON BLVD., 7TH FLOOR
ARLINGTON VA 22203

MAILED

AUG 30 2010

OFFICE OF PETITIONS

In re Application of	:	
Chien-Jung CHEN et al.	:	
Application No. 11/482,066	:	
Filed: July 07, 2006	:	NOTICE UNDER 37 CFR. 1.28(c)
Patent No. 7,492,070	:	
Issued: February 17, 2009	:	
Attorney Docket No. 2561-0026	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to Michelle R. Eason at (571) 272-4231.

Thurman K. Page
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
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4300 WILSON BLVD., 7TH FLOOR
ARLINGTON VA 22203

MAILED

AUG 3 0 2010

OFFICE OF PETITIONS

In re Application of	:	
Chien-Jung CHEN et al.	:	
Application No. 11/482,067	:	
Filed: July 07, 2006	:	NOTICE UNDER 37 CFR. 1.28(c)
Patent No. 7,443,065	:	
Issued: October 28, 2008	:	
Attorney Docket No. 2561-0027	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to Michelle R. Eason at (571) 272-4231.

Thurman K. Page
Petitions Examiner
Office of Petitions

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F. CHAU & ASSOCIATES, LLC
130 WOODBURY ROAD
WOODBURY NY 11797

MAILED
SEP 23 2011
OFFICE OF PETITIONS

In re Application of	:	
Jun-Woo Lee, et al.	:	
Application No. 11/482,085	:	DECISION GRANTING PETITION
Filed: July 6, 2006	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 8071-220	:	
(OPP051231US)		

This is a decision on the petition under 37 CFR 1.313(c)(2), filed September 21, 2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on August 25, 2011 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries regarding this decision should be directed to undersigned at (571) 272-1642. All other inquiries regarding the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 2629 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

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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.*

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : April 19 ,2011

TO SPE OF : ART UNIT 2432

SUBJECT : Request for Certificate of Correction for

Appl. No. 11/482204 patent No. **RE42002 E**

C of C mailroom date:--04-15-11

Please respond to this request for a certificate of correction within 7 days.

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**.

Magdalene Talley

Certificates of Correction Branch

571-272- 0423

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☑ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: All Changes are APPROVED

SPE /Gilberto Barron Jr/2432 **Art Unit**

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MAILED

AUG 25 2010

OFFICE OF PETITIONS

CLEMENTS BERNARD PLLC
1901 ROXBOROUGH ROAD
SUITE 250
CHARLOTTE NC 28211

In re Application of	:	
Young Ki Yu et al	:	
Application No. 11/482,245	:	ON PETITION
Filed: July 7, 2006	:	
For: APPARATUS AND METHOD FOR	:	
CREATING A CROWD-BASED VISUAL	:	
DISPLAY WITH PIXELS THAT MOVE	:	
INDEPENDENTLY	:	

This is a decision on the petition under 37 CFR 1.137(a), filed May 21, 2010, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to reply in a timely manner to the nonfinal Office action mailed June 25, 2009.

Petitioner asserts that the Office action mailed June 25, 2009, was never received.

A review of Office records show that a "Request For Withdrawal As Attorney Or Agent And Change Of Correspondence Address" was filed on October 22, 2008. A decision on the request was mailed on June 3, 2009, approving the request but stated that the Office did not accept the correspondence address because it was not the first named inventor or the assignee of the entire interest under 37 CFR 3.371. The decision also stated that the first, second and third inventors addresses were not legible on the oath/declaration on file. The correspondence address was changed to that of the fourth signing inventor. However, Office records show that the address on the request filed October 22, 2008, is identical to the assignee's address on the recorded assignment of July 7, 2006, which remained the same until February 2, 2010.

In view of the above, the petition under 37 CFR 1.137(a) is granted.

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 May 21, 2010.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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DAVID J. BOLDUC
FACE INTERNATIONAL CORPORATION
427 W 35TH ST
NORFOLK, VA 23508

MAILED
SEP 23 2010
OFFICE OF PETITIONS

In re Application of	:	
Carazo et al.	:	
Application No. 11/482,346	:	DECISION ON PETITION
Filed: July 7, 2006	:	
Attorney Docket No. SVC082	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 2, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before May 5, 2010, as required by the Notice of Allowance and Fee(s) Due mailed February 5, 2010. Accordingly, the application became abandoned on May 6, 2010. A Notice of Abandonment was mailed May 24, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $755 and the publication fee of $300, (2) the petition fee of $810 , and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571)272-6059.

This application is being referred to the Office of Data Management for processing into a patent.

A. Kelley

Alicia Kelley
Petitions Examiner
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	11482400
Filing Date	07-Jul-2006
First Named Inventor	Takaaki Endo
Art Unit	2486
Examiner Name	TUNG VO
Attorney Docket Number	10035095US01
Title	INFORMATION PROCESSING APPARATUS AND METHOD

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	/Pedro A Rojas/
Name	Pedro A Rojas
Registration Number	63008

UNITED STATES 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 19, 2012

In re Application of :

Takaaki Endo

DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 11482400

Filed : 07-Jul-2006

Attorney Docket No : 10035095US01

This is an electronic decision on the petition under 37 CFR 1.313(c)(2), filed March 19, 2012 , to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid in this application cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.

Telephone inquiries concerning this decision should be directed to the Patent Electronic Business Center (EBC) at 866-217-9197.

This application file is being referred to Technology Center AU 2486 for processing of the request for continuing examination under 37 CFR 1.114 .

Office of Petitions

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AVAYA INC.
MARGARET CARMICHAEL,
DOCKETING SPECIALIST
1300 W. 120TH AVENUE
ROOM B1-F53
WESTMINSTER CO 80234

MAILED
MAY 27 2011
OFFICE OF PETITIONS

In re Patent No. 7,882,171 :
Issue Date: 1 February, 2011 :
Application No. 11/482,498 : DECISION
Filed: 8 July, 2006 :
Attorney Docket No. 7001-705

This is a decision on the petition filed on 28 January, 2011, under 37 C.F.R. §1.27(g)(2) requesting that status as a Small Entity be removed.

NOTE:

For Petitioner's future reference, it is noted that the guidance in the Commentary (MPEP §509.03) instructs the application/practitioner to chart out the fee paid, the fee actually appropriate and the differential due,--such that Office staff may quickly ascertain the items in question.

In view of their duty of candor to the Office to properly inquire to ascertain the accuracy of representations made before the Office (*see*: *inter alia*, 37 C.F.R. §1.4, §11.18 (formerly §10.18), MPEP §410), Petitioners always are reminded of the responsibility to review their records and submit accurate information to the Office.

It is noted that the address on the petition is other than that of record—as a courtesy, a copy of this decision is being mailed to that address.

However, all future correspondence as to this file will be directed to the correspondence address of record.

Petitioner's submission is **ACCEPTED**.

Patent No. 7,882,171
Application No. 11/482,498

In accordance with the request, status as a Small Entity will be removed, and Petitioner is required to pay fees at the schedule set forth for not-small entities. **The additional fees were charged as authorized.**

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Out of an abundance of caution, Petitioners always are reminded that that those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1], [2]

The instant application is released to IFW Files Repository in due course.

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[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on Petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

[2] The regulations at 37 C.F.R. §11.18 provide:

§ 11.18 Signature and certificate for correspondence filed in the Office.

(a)For all documents filed in the Office in patent, trademark, and other non-patent matters, and all documents filed with a hearing officer in a disciplinary proceeding, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Office must bear a signature, personally signed by such practitioner, in compliance with § 1.4(d)(1) of this subchapter.

(b)By presenting to the Office or hearing officer in a disciplinary proceeding (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—

(1)All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or knowingly and willfully makes any false, fictitious, or fraudulent statements or representations, or knowingly and willfully makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001 and any other applicable criminal statute, and violations of the provisions of this section may jeopardize the probative value of the paper; and

(2)To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances,

(i)The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of any proceeding before the Office;

(ii)The other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(iii)The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(iv)The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.

(c)Violations of any of paragraphs (b)(2)(i) through (iv) of this section are, after notice and reasonable opportunity to respond, subject to such sanctions or actions as deemed appropriate by the USPTO Director, which may include, but are not limited to, any combination of—

(1)Striking the offending paper;

(2)Referring a practitioner's conduct to the Director of Enrollment and Discipline for appropriate action;

(3)Precluding a party or practitioner from submitting a paper, or presenting or contesting an issue;

(4)Affecting the weight given to the offending paper; or

(5)Terminating the proceedings in the Office.

(d)Any practitioner violating the provisions of this section may also be subject to disciplinary action.

[Added, 73 FR 47650, Aug. 14, 2008, effective Sept. 15, 2008]

Patent No. 7,882,171
Application No. 11/482,498

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[3]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

CC
WITHROW & TERRANOVA PLLC
100 REGENCY FOREST DRIVE/SUITE 160
CARY, NC 27518

[3] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Bell & Manning, LLC
122 E. Olin Avenue, Suite 290
Madison WI 53713

MAILED
JUL 15 2011
OFFICE OF PETITIONS

In re Application of :
Sayeed :
Application No. 11/482,530 : ON APPLICATION FOR
Filed: July 7, 2006 : PATENT TERM ADJUSTMENT
Atty Docket No. 00300-0058 :
:

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705, filed May 18, 2011, which is properly treated under 37 CFR 1.705(b). Applicants submits that the patent term adjustment to be indicated on the patent is four hundred and twenty-one (421) days, not one three hundred and forty-four (344) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment.

The request for reconsideration of patent term adjustment is DISMISSED.

On April 15, 2011, a "Determination of Patent Term Adjustment under 35 U.S.C. 154(b)" was mailed indicating that the initial patent term adjustment is 344 days. The instant petition under 37 CFR 1.705(b) was filed on May 18, 2011—on the same day that issue fee was paid. Petitioner asserts that the initial patent term adjustment is 421 days and states specifically that:

> [t]the Patent Office determined that the patent was entitled to 344 days of PTA. Applicants respectfully submit that the Patent Office failed to include an additional 77 days of PTA that accrued as a result of a failure by the Patent Office to respond to the filing of a first Appeal Brief within 4 months as required by 35 USC 154(b)(1)(A)(ii). The first Appeal Brief was filed on September 22, 2009. However, the Patent Office did not issue a Non-Final Office Action in response to the filing of the first Appeal Brief until April 8, 2010, resulting in

an additional 77 days of PTA, which accrued from January 22, 2010, until April 8, 2010.

Excerpt taken from "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705, filed May 18, 2011, page 1.

Applicants' argument has been considered, but is not persuasive. A review of the application file history reveals that an appeal brief was filed September 22, 2009. The Office mailed a non-final Office action on January 8, 2010, within four months of the filing of the appeal brief[1]. Accordingly, no additional adjustment to patent term is warranted.

It is noted that applicant has not presented any other issue that would be properly treated under 37 CFR 1.705(b).

In view thereof, the petition is DISMISSED.

The application file is being forwarded to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded[2]).

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application file is being forwarded to the Office of Data Management for issuance of the patent.

---

[1] Office records reflect on April 8, 2010, applicants filed a response to the non-final Office action mailed January 8, 2010. It is noted that applicants state that the non-final Office action was mot mailed until April 8, 2010. This is not consistent with record as contained in the Image File Wrapper for the application, nor Office PALM records.

[2] See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR ' 1.703(f). See also Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule, 69 Fed. Reg. 21704 (April 22, 2004).

Telephone inquiries regarding this matter should be directed to the undersigned, at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 08-23-11

TO SPE OF : ART UNIT 2618

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/482530 Patent No.: 8000730

CofC mailroom date: 09-12-11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Note: _____

Angela Green 571.272.9005
CofC Branch 703-756-1814

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

No new matter is introduced. The scope of the claims is not changed. Applicant inadvertently omitted the mathematical symbols in the after-final claim listing 9/28/2010.

/Wen Huang/

SPE **Art Unit** 2618

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.
11/482,582	07/07/2006	Nikolay Suslov	11773-003-999	6534

20583 7590 06/30/2011
JONES DAY
222 EAST 41ST ST
NEW YORK, NY 10017

EXAMINER
DELLA, JAYMI E

ART UNIT	PAPER NUMBER
3739	

MAIL DATE	DELIVERY MODE
06/30/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JONES DAY
222 EAST 41ST ST
NEW YORK NY 10017

In re Application of: SUSLOV, NIKOLAY Serial No. 11/482582 Filed: July 7, 2006 Docket: 11773-003-999 Title: PLASMA-GENERATING DEVICE, PLASMA SURGICAL DEVICE, USE OF A PLASMA-GENERATING DEVICE AND METHOD OF GENERATING A PLASMA	DECISION ON PETITION UNDER 37 CFR § 1.181

This is a decision on the request filed June 9, 2011 under 37 CFR 1.181 requesting withdrawal of the finality of the last Office action mailed May 23, 2011.

The petition is **Granted.**

In finding petitioner's points of argument persuasive, the requested relief is granted. As such, the finality of the Office actions issued on May 23, 2011 is premature and the finality of the Office action is hereby withdrawn. The Office action mailed on May 23, 2011 will be designated as a non-final Office action. Since the finality is being withdrawn, any amendment filed in response to the Office action of May 23, 2011 will be treated as a 37 CFR § 1.111 amendment.

The application is being forwarded to the examiner via the Supervisory Patent Examiner of Art Unit 3739 awaiting the applicant's response to the outstanding Office action mailed on May 23, 2011. Any inquiry regarding this decision should be directed to Henry C. Yuen, Special Programs Examiner, at (571) 272-4856.

PETITION GRANTED.

Angela D. Sykes, Director
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

ROPES & GRAY LLP
IPRM - Floor 43
Prudential Tower
800 Boylston Street
Boston MA 02199-3600

MAILED
MAR 28 2011
OFFICE OF PETITIONS

In re Patent No. 7,847,062	:	
Chen, et al.	:	DECISION DISMISSING
Application No. 11/482,641	:	REQUEST FOR
Issue Date: December 7, 2010	:	RECONSIDERATION OF
Filed: July 7, 2006	:	PATENT TERM ADJUSTMENT
Attorney Docket No.	:	UNDER 37 CFR 1.705
COTH-P04-003	:	

This is in response to the "Request for Reconsideration of Patent Term Adjustment under 37 CFR 1.705(d)" filed February 4, 2011, Patentees requests that the determination of patent term adjustment be corrected from three hundred and thirty-one (331) days to at least ninety-four (94) days.

The request for reconsideration of patent term adjustment is **DISMISSED** with respect to making any change in the patent term adjustment determination under 35 U.S.C. § 154(b) of 331 days.

No consideration will be given to patentees' assertion that the reduction to the patent term adjustment should be no more than 506 days. Further to this point, PALM records indicate that the issue fee payment was received in the Office on April 28, 2010. No application for patent term adjustment under 37 CFR 1.705(b) preceded the payment of the issue fee. The period for filing an application for patent term adjustment requesting reconsideration of the initial determination of patent term adjustment at the time of mailing of the notice of allowance ended April 28, 2010. Accordingly, relative to the entry of 237 additional days of reduction to the patent term adjustment to be entered prior to the issuance of the patent, it is appropriate to dismiss this petition as untimely filed under § 1.705(b).

Further, consideration under § 1.705(d) is not appropriate. As stated in MPEP 2730, § 1.703(d) provides that:

> If there is a revision to the patent term adjustment indicated in the notice of allowance, the patent will indicate the revised patent term adjustment. If the patent indicates or should have indicated a revised patent term adjustment, any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued and must comply with the requirements of paragraphs (b)(1) and (b)(2) of this section. Any request for reconsideration under this section that raises issues that were raised, or could have been raised, in an application for patent term adjustment under paragraph (b) of this section shall be dismissed as untimely as to those issues.

The issue of an additional 237 days of reduction to the patent term adjustment raised herein should have been timely raised on application for patent term adjustment under § 1.705(b). Thus, the additional 237 days of adjustment to the patent term adjustment will not be entered.

Patentees presented no argument under 37 CFR 1.705(d) relative to the adjustments and/or reductions which were entered, or should have been entered, pursuant to 37 CFR 1.704(c)(10) or 37 CFR 1.702(b)

In view thereof, the Office affirms that the revised determination of patent term adjustment at the time of the issuance of the patent is three hundred and thirty-one (331) days.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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ROPES & GRAY LLP
IPRM - Floor 43
Prudential Tower
800 Boylston Street
Boston MA 02199-3600

MAILED
MAY 2 7 2011
OFFICE OF PETITIONS

In re Patent No. 7,847,062	: DECISION ON REQUEST
Chen, et al.	: FOR
Issue Date: December 7, 2010	: RECONSIDERATION OF
Application No. 11/482,641	: PATENT TERM ADJUSTMENT
Filed: July 7, 2006	: and
Atty Docket No. **COTH-P04-003**	: NOTICE OF INTENT TO ISSUE
	: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on May 20, 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 ninety-four (94) 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 ninety-four (94) days is **GRANTED.**

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentee is given **one (1) month or thirty (30) days,** whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The Office is in receipt of the $200. 00 for the fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by ninety-four (94) days.

Telephone inquiries specific to this matter should be directed to the undersigned, at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,847,062 B2

DATED : Dec. 7, 2010

INVENTOR(S) : Chen, 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 (331) days

Delete the phrase "by 331 days" and insert – by 94 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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www.uspto.gov

WAGNER BLECHER, LLP
123 WESTRIDGE DRIVE
WATSONVILLE, CA 95076

MAILED

AUG 18 2011

OFFICE OF PETITIONS

In re Application of	:	
Luis Aldaz, et. al.	:	
Application No. 11/482,647	:	DECISION ON PETITION
Filed: July 7, 2006	:	TO WITHDRAW FROM
Attorney Docket No. HSFT-002	:	RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR §§ 1.36(b) or 10.40 filed August 5, 2011.

The request is **APPROVED**.

The request was signed by Matthew Blecher on behalf of himself and all attorneys/agents associated with Customer Number 70406. Therefore, Matthew Blecher and all the attorneys/agents associated with Customer Number 70406 have been withdrawn.

Applicant is reminded that there are no attorneys/agents of record at this time.

All future communications from the Office will be directed to the intervening assignee at the address listed below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

cc: HelloSoft, Inc.
640 West California Ave.
Suite 100
Sunnyvale, CA 94086

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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WAGNER BLECHER LLP
123 WESTRIDGE DRIVE
WATSONVILLE CA 95076

MAILED

AUG 18 2011

OFFICE OF PETITIONS

In re Application of	:	
ALDAZ, et al	:	
Application No. 11/482,648	:	DECISION ON PETITION
Filed: July 7, 2006	:	TO WITHDRAW
Attorney Docket No. HSFT-001	:	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 5, 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 Matthew J. Blecher on behalf of the attorneys of record associated with Customer No. 70406.

The attorneys of record associated with Customer No. 70406 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address indicated below until otherwise properly notified.

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: HELLOSOFT, INC.
640 WEST CALIFORNIA AVE., SUITE 100
SUNNYVALE, CA 94086

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/482,648	07/07/2006	Luis Aldaz	HSFT-001

CONFIRMATION NO. 6819

POWER OF ATTORNEY NOTICE

70406
WAGNER BLECHER LLP
123 WESTRIDGE DRIVE
WATSONVILLE, CA 95076

OC000000049365775

Date Mailed: 08/17/2011

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/05/2011.

- 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
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/482,682	07/06/2006	Marek Franaszek	4239-73023-01	6744

7590 08/10/2011
KLARQUIST SPARKMAN, LLP (OTT-NIH)
121 S.W. SALMON STREET
SUITE #1600
PORTLAND, OR 97204-2988

EXAMINER
ROZ, MARK

ART UNIT	PAPER NUMBER
2624	

NOTIFICATION DATE	DELIVERY MODE
08/10/2011	ELECTRONIC

ACKNOWLEDGEMENT OF REQUEST

Notice of Allowance/Allowability Mailed

The request to print a color drawing reference as the first paragraph in the portion of the specification containing a brief description of the drawings as required by 37 CFR 1.84 and MPEP § 608.02 has been received by the United States Patent and Trademark Office and will be entered into the specification.

571-272-4200 or 1-888-786-0101
Application Assistance Unit
Office of Data Management

FORM PTOM327-5 (Rev. 02/08)

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

August 8, 2011

KLARQUIST SPARKMAN, LLP (OTT-NIH)
121 S.W. SALMON STREET
SUITE #1600
PORTLAND OR 97204-2988

In re Application of	:	
Marek Franaszek et al.	:	**DECISION ON PETITION**
Application No. 11482682	:	
Filed: 07/06/2006	:	***ACCEPTANCE OF COLOR***
Attorney Docket No. **4239-73023-01**	:	***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) July 6, 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.

/Laura Feldman/
Quality Control Specialist
Office of Data Management
Publications Branch

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Patent No. : 7,768,888 B2
Ser. No. : 11/482,725
Inventor(s) : Suzuki
Issued : Aug. 3, 2010
Title : METHOD FOR DISCRIMINATING THE KIND OF OPTICAL DISK AND OPTICAL DISK APPARATUS USING THE SAME
Docket No. : 500.46366X00
Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this matter, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1. 17(i) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Ennis Young
For Mary Diggs
Decisions & Certificates
of Correction Branch
(571) **272-3435** or (703) 756-1814

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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ANTONELLI, TERRY,
STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON VA 22209-3873

MAILED

AUG 01 2011

OFFICE OF PETITIONS

In re Patent No. 7,768,888 :
Issue Date: 3 August, 2010 :
Application No. 11/482,725 : ON PETITION
Filed: 10 July, 2006 :
Attorney Docket No. 500.46366X00 :

This is a decision on the petition filed on 23 June, 2011, pursuant to 37 C.F.R. §1.183 and §3.81(b) to correct, *inter alia*, the name of the assignee on the front page of the above-identified patent by way of a certificate of correction under 37 C.F.R. §1.323.

The request is **GRANTED**— upon the instant showing of the recordation of the assignment on 10 July, 2006, and the location of recordation as Reel/Frame 018051/0131.

Petitioner requests issuance of a certificate of correction the identification of the Assignees to **"HITACHI, LTD, (Tokyo (JP)" and "HITACHI-LG DATA STORAGE, INC, (Tokyo (JP)"** of the substance/form of that submitted therewith.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 C.F.R. §3.81(b) and directing issuance of the requested Certificate of Correction.

Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

Patent No. 7,768,888
Application No. 11/482,725

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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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LAWRENCE R. FRALEY
Hinman, Howard & Katrell, LLP
700 Security Mutual Building
80 Exchange Street
Binghamton NY 13902-5250

MAILED

FEB 14 2011

OFFICE OF PETITIONS

In re Application of	:	
Ralph Cotran et al.	:	
Application No. 11/482,946	:	DECISION ON PETITION
Filed: July 10, 2006	:	
Attorney Docket No. **HHK-2-06-001**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 5, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of April 1, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is July 2, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $405, and the submission required by 37 CFR 1.114; (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts

and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to be acknowledged as the attorney of record in this application, the appropriate power of attorney document must be submitted.

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) 272-4584.

This application is being referred to Technology Center AU 3764 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

/JoAnne Burke/
JoAnne Burke
Petitions Examiner
Office of Petitions

cc: Mark Levy
HIMMAN, HOWARD & KATTELL, LLP
P.O. Box 5250
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UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

MAILED
AUG 19 2011
OFFICE OF PETITIONS

In re Application of	:	
Violette et al.	:	
Patent Number: 7,943,742	:	DECISION ON
Issue Date: 05/17/2011	:	PETITION REGARDING
Application No. 11/483190	:	PATENT TERM ADJUSTMENT
Filing or 371(c) Date: 07/10/2006	:	
Attorney Docket Number: 02938-19815US01	:	

This is a decision on the petition filed on July 13, 2011, requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by three hundred ninety (390) 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 ninety (390) days is **DISMISSED**.

As to the period of time excluded from B delay for appellate review, Patentee's argument has also been considered, but not found persuasive. The period consumed by appellate review, whether successful or not, is excluded from the calculation of B delay. See, 35 U.S.C. 154(b)(1)(B)(ii). An appeal to the Board of Patent Appeals and Interferences commences with the filing of a notice of appeal. See 35 U.S.C. 134(a). Generally, an appeal to the Board of Patent Appeals and Interferences ends with either 1) a Board decision, 2) the examiner reopening prosecution and issuing another Office action, or 3) the applicant filing a request to withdraw the appeal and reopen prosecution (e.g. the filing of a request for continued examination). In this instance the period consumed by appellate review is 17 days, beginning on November 30, 2011, the date of filing of the notice of appeal, and ending on December 16, 2010, the date of mailing of the Notice of Allowance.

It is noted that the Office issued a Notice of proposed rulemaking entitled *Revision of Patent Term Extension and Adjustment Provisions Relating to Appellate Review and Information Disclosure Statements*, 76 FR 18990 (April 6, 2011). To the extent that the final rule on *Revision of Patent Term Extension and Adjustment Provisions Relating to Appellate Review* revises the interpretation of appellate review applied in this decision, Patentees are given **one (1) month or**

thirty (30) days, whichever is longer, from the date of the final rule to file a request for reconsideration. No extensions of time will be granted under § 1.136.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3232.

/DLW/

Derek L. Woods
Attorney
Office of Petitions

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EXXONMOBIL CHEMICAL COMPANY
5200 BAYWAY DRIVE
P.O. BOX 2149
BAYTOWN TX 77522-2149

MAILED
OCT 18 2010
OFFICE OF PETITIONS

In re Application of Tse et al.	:	
Application No. 11/483,270	:	Decision on Petitions Under
Filing Date: July 7, 2006	:	37 CFR 1.78(a)(3) and (a)(6)
Attorney Docket No. 2005B089A	:	

This is a decision on the petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed May 14, 2010, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of priority to the prior-filed applications set forth in the concurrently filed amendment.

The petitions are **GRANTED.**

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) The reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;

(2) The surcharge set forth in § 1.17(t); and

(3) A statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional 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(s). Further, the nonprovisional application(s) claiming the benefit of the prior-filed provisional application(s) must have been filed within twelve months of the filing date of the prior-filed provisional application(s).

All of the previous requirements have been satisfied. Therefore, the late claim for benefit of priority to the prior-filed applications under 35 U.S.C. §§ 120 and 119(e) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §§ 120 and 1.78(a)(1) and (a)(2) and under 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed applications, accompanies this decision on petition.

The application is being forwarded to Technology Center Art Unit 1765 for consideration by the examiner of the claim of priority under 35 U.S.C. § 120 to the prior-filed application and the claim under 35 U.S.C. § 119(e) for the benefit of priority to the prior-filed provisional applications.

Any inquiries concerning this decision may be directed to Senior Petitions Attorney Steven Brantley at (571) 272-3203. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/483,270	07/07/2006	1765	5132	2005B089A	94	2

CONFIRMATION NO. 7916

CORRECTED FILING RECEIPT

23455
EXXONMOBIL CHEMICAL COMPANY
5200 BAYWAY DRIVE
P.O. BOX 2149
BAYTOWN, TX 77522-2149

OC000000044024522

Date Mailed: 10/15/2010

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)

Mun Fu Tse, Seabrook, TX;
Thottinal Abraham Mathew, Houston, TX;
Feng Li, Katy, TX;

Power of Attorney: The patent practitioners associated with Customer Number 23455

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/699,718 07/15/2005
and is a CIP of 11/119,072 04/29/2005 PAT 7,629,416
which claims benefit of 60/637,429 12/17/2004
and claims benefit of 60/655,612 02/22/2005
and claims benefit of 60/655,310 02/22/2005

Foreign Applications

If Required, Foreign Filing License Granted: 08/01/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/483,270**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

ELASTOMERIC COMPOSITIONS COMPRISING VINYLAROMATIC BLOCK COPOLYMER, POLYPROPYLENE, PLASTOMER, AND LOW MOLECULAR WEIGHT POLYOLEFIN

Preliminary Class

525

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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710 LAKEWAY DRIVE
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MAILED
JUN 03 2011
OFFICE OF PETITIONS

In re Application of	:	
Bonora	:	
Application No. 11/483,366	:	DECISION
Filed/Deposited: 7 July, 2006	:	
Attorney Docket No. 34741-1069	:	

This is a decision on the papers filed on 16 May, 2011, considered as a petition pursuant to 37 C.F.R. §1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

NOTE:

Petitioner, as one registered to practice before the Office, is aware that all practice before the Office is in writing (see: 37 C.F.R. §1.2[1]) 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) or inaction(s).

Notwithstanding the Rules of Practice, Petitioner chose to recites such conversations.

Moreover, while Petitioner provided a copy of a date-stamped receipt card averred to have been submitted by and returned to Petitioner, Petitioner failed recite that it was a true copy and failed to provide a true copy of the Notice of Appeal and of both sides of the check averred to have been submitted or a replacement check of the original was not processed by the Office. Moreover, Petitioner failed to evidence—and the receipt card

[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 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.

does not demonstrate, that Petition submitted a request and fee (or authorization therefore) for extension of time at the averred submittal of the Notice of Appeal and the required fee.

The petition pursuant to 37 C.F.R. §1.181 is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition pursuant to 37 C.F.R. §1.181."

This is **not** a final agency action within the meaning of 5 U.S.C. §704.

As to the Request to Withdraw
the Holding of Abandonment

Petitioner is directed to the Commentary at MPEP §711.03(c)(I) for guidance as to the proper showing requirements for relief pursuant to 37 C.F.R. §1.181.

Petitioner appears not to comply with the guidance in the Commentary at MPEP §711.03(c)(I)—as discussed below, Petitioner has failed to satisfy the showing requirements set forth there. Petitioner may find it beneficial to review that material and move step-wise through that guidance in the effort to satisfy the showing requirements (statements and supporting documentation).

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the final Office action mailed on 26 August, 2010, with reply due absent extension of time on or before 26 November, 2010.

The application went abandoned by operation of law after midnight 26 November, 2010.

The Office mailed the Notice of Abandonment on 29 March, 2011.

On 16 May, 2011, Petitioner filed a request to withdraw the holding of abandonment pursuant to 37 C.F.R. §1.181, and averred timely reply on (Monday) 27 December, 2010—while Petitioner recites a 22 December, 2010, filing, the receipt card demonstrates the later date—however, Petitioner failed recite that it was a true copy and failed to provide a true copy of the Notice of

Appeal (with a showing of submission over a certificate of mail pursuant to 37 C.F.R. §1.8 or §1.10) and of both sides of the check averred to have been submitted (or a replacement check if the original was not processed by the Office). Moreover, Petitioner failed to evidence—and the receipt card does not demonstrate—that Petitioner submitted a request and fee (or authorization therefore) for extension of time at the averred submittal of the Notice of Appeal and the required fee. Thus, Petitioner failed to detail the events in associated with the matter in compliance with the guidance in the Commentary at MPEP §711.03(c)(I) (*see*: below).

Thus, Petitioner has not satisfied the showing under the Rule.

With regard to Petitioner's request to withdraw the holding of abandonment pursuant to 37 C.F.R. §1.181, the guidance in the Commentary at MPEP §711.03(c)(I) provides in pertinent part as to timely fling:

> ***
>
> 37 C.F.R. §1.10(c) through §1.10(e) and §1.10(g) set forth procedures for petitioning the Director of the USPTO to accord a filing date to correspondence as of the date of deposit of the correspondence as "Express Mail." A petition to withdraw the holding of abandonment relying upon a timely reply placed in "Express Mail" must include an appropriate petition under 37 C.F.R. §1.10(c), (d), (e), or (g) (see MPEP §513). When a paper is shown to have been mailed to the Office using the "Express Mail" procedures, the paper must be entered in PALM with the "Express Mail" date.
>
> Similarly, applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides *prima facie* evidence that the reply was timely filed. See MPEP §503. For example, if the application has been held abandoned for failure to file a reply to a first Office action, and applicant has a postcard receipt showing that an amendment was timely filed in response to the Office action, then the holding of abandonment should be withdrawn upon the filing of a petition to withdraw the holding of abandonment. When the reply is shown to have been timely filed based on a postcard receipt, the reply must be entered into PALM using the date of receipt of the reply as shown on the post card receipt.
>
> Where a certificate of mailing under 37 C.F.R. §1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 C.F.R. 1.8(b) and MPEP §512. As stated in 37 C.F.R. §1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is shown to

> have been timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 C.F.R. §1.8).
>
> 37 C.F.R. §1.8(b) also permits applicant to notify the Office of a previous mailing or transmission of correspondence and submit a statement under 37 C.F.R. §1.8(b)(3) accompanied by a duplicate copy of the correspondence when a reasonable amount of time (e.g., more than one month) has elapsed from the time of mailing or transmitting of the correspondence. Applicant does not have to wait until the application becomes abandoned before notifying the Office of the previous mailing or transmission of the correspondence. Applicant should check the private Patent Application Information Retrieval (PAIR) system for the status of the correspondence before notifying the Office. See MPEP §512. [2]

***

A Petitioner unable to comply with and/or otherwise satisfy these requirements may wish to revive the application: Petitioner may wish to properly file a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay under 37 C.F.R. §1.137(b). (See: http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c)

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (*see*: 37 C.F.R. §1.181(f)), and those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[3]

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

STATUTES, REGULATIONS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994). And the

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[2] *See*: MPEP §711.03(c) (I)(B).

[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).

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.[4],[5]

Moreover, the Office has set forth in the Commentary at MPEP §711.03(c)(I) the showing and timeliness requirements for a proper showing for relief under 37 C.F.R. §1.181 in these matters.

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[6]

Allegations as to the Request to
Withdraw the Holding of Abandonment

The guidance in the Commentary at MPEP §711.03(c)(I) specifies the showing required and how it is to be made and supported.

Petitioner appears not to have made the showing required.

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[4] 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).

[5] 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.))

[6] 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).

CONCLUSION

Accordingly, the petition pursuant to 37 C.F.R. §1.181 is **dismissed**.

ALTERNATIVE VENUE

Should Petitioner wish to revive the application, Petitioner may wish to properly file a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay pursuant to 37 C.F.R. §1.137(b). (See: http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c)

A petition to revive on the grounds of unintentional delay must be filed promptly and such petition must be accompanied by the reply, the petition fee, a terminal disclaimer and fee where appropriate and a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional." (The statement is in the form available online.)

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By facsimile: **(571) 273-8300**
Attn: Office of Petitions

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[7]) 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

[7] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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& GENCARELLA, LLP
710 LAKEWAY DRIVE
SUITE 200
SUNNYVALE CA 94085

MAILED

AUG 18 2011

OFFICE OF PETITIONS

In re Application of	:	
Bonora	:	
Application No. 11/483,366	:	DECISION
Filed/Deposited: 7 July, 2006	:	
Attorney Docket No. 34741-1069	:	

This is a decision on the petition filed on 1 August, 2011, considered as a petition pursuant to 37 C.F.R. §1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition pursuant to 37 C.F.R. §1.181 is **GRANTED**.

As to the Request to Withdraw
the Holding of Abandonment

Petitioners always are directed to the Commentary at MPEP §711.03(c)(I) for guidance as to the proper showing requirements for relief pursuant to 37 C.F.R. §1.181.

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the final Office action mailed on 26 August, 2010, with reply due absent extension of time on or before 26 November, 2010.

The application went abandoned by operation of law after midnight 26 November, 2010.

The Office mailed the Notice of Abandonment on 29 March, 2011.

On 16 May, 2011, Petitioner filed a request to withdraw the holding of abandonment pursuant to 37 C.F.R. §1.181, and averred timely reply on (Monday) 27 December, 2010—while Petitioner recites a 22 December, 2010, filing, the receipt card demonstrates the later date—however, Petitioner failed recite that it was a true copy and failed to provide a true copy of the Notice of Appeal (with a showing of submission over a certificate of mail pursuant to 37 C.F.R. §1.8 or §1.10) and of both sides of the check averred to have been submitted (or a replacement check if the original was not processed by the Office). Moreover, Petitioner failed to evidence—and the receipt card does not demonstrate—that Petitioner submitted a request and fee (or authorization therefore) for extension of time at the averred submittal of the Notice of Appeal and the required fee. Thus, Petitioner failed to detail the events in associated with the matter in compliance with the guidance in the Commentary at MPEP §711.03(c)(I). and the petition was dismissed on 3 June, 2011.

On 1 August, 2011, Petitioner re-advanced his petition, this time with statements and copies of documents submitted consistent with the showing requirements set forth at the guidance in the Commentary at MPEP §711.03(c)(I)

With regard to Petitioner's request to withdraw the holding of abandonment pursuant to 37 C.F.R. §1.181, the guidance in the Commentary at MPEP §711.03(c)(I) provides in pertinent part as to timely fling:

***

> 37 C.F.R. §1.10(c) through §1.10(e) and §1.10(g) set forth procedures for petitioning the Director of the USPTO to accord a filing date to correspondence as of the date of deposit of the correspondence as "Express Mail." A petition to withdraw the holding of abandonment relying upon a timely reply placed in "Express Mail" must include an appropriate petition under 37 C.F.R. §1.10(c), (d), (e), or (g) (see MPEP §513). When a paper is shown to have been mailed to the Office using the "Express Mail" procedures, the paper must be entered in PALM with the "Express Mail" date.
>
> Similarly, applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides *prima facie* evidence that the reply was timely filed. See MPEP §503. For example, if the application has been held abandoned for failure to file a reply to a first Office action, and applicant has a postcard receipt showing that an amendment was timely filed in response to the Office action, then the holding of abandonment should be withdrawn upon the filing of a petition to withdraw the holding of abandonment. When the reply is shown to have been timely filed based on a postcard receipt, the reply must be entered into PALM using the date of receipt of the reply as shown on the post card receipt.
>
> Where a certificate of mailing under 37 C.F.R. §1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 C.F.R. 1.8(b) and MPEP §512. As stated in 37 C.F.R. §1.8(b)(3) the statement that attests to the previous

> timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is shown to have been timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 C.F.R. §1.8).
>
> 37 C.F.R. §1.8(b) also permits applicant to notify the Office of a previous mailing or transmission of correspondence and submit a statement under 37 C.F.R. §1.8(b)(3) accompanied by a duplicate copy of the correspondence when a reasonable amount of time (e.g., more than one month) has elapsed from the time of mailing or transmitting of the correspondence. Applicant does not have to wait until the application becomes abandoned before notifying the Office of the previous mailing or transmission of the correspondence. Applicant should check the private Patent Application Information Retrieval (PAIR) system for the status of the correspondence before notifying the Office. See MPEP §512. [1]

***

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (*see*: 37 C.F.R. §1.181(f)), and those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[2]

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

STATUTES, REGULATIONS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994). And the

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[1] *See*: MPEP §711.03(c) (I)(B).

[2] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on Petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §11.18 (formerly 37 C.F.R. §10.18) to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application.[3],[4]

Moreover, the Office has set forth in the Commentary at MPEP §711.03(c)(I) the showing and timeliness requirements for a proper showing for relief under 37 C.F.R. §1.181 in these matters.

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[5]

Allegations as to the Request to
Withdraw the Holding of Abandonment

The guidance in the Commentary at MPEP §711.03(c)(I) specifies the showing required and how it is to be made and supported.

Petitioner appears to have made the showing required.

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[3] See: Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. at 53158-59 (October 10, 1997), 1203 Off. Gaz. Pat. Office at 86-87 (October 21, 1997).

[4] The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition. (Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.) Delays in responding properly raise the question whether delays are unavoidable. Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) And the Petitioner must be diligent in attending to the matter. Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care. (By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.))

[5] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

CONCLUSION

Accordingly, the petition as considered pursuant to 37 C.F.R. §1.181 is **granted**, and the 29 March, 2011, Notice of Abandonment hereby is **vacated**.

The instant application is released to the Technology Center/AU 3788 for further processing (Examiner's Answer) in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the TC/AU in response to this decision. It is noted that all inquiries with regard to that change in status need be directed to the TC/AU where that change of status must be effected—that does not occur in the Office of Petitions.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[6]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[6] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/483,366	07/07/2006	Anthony C. Bonora	34741-1069	7200

7590 01/25/2012
MARTINE PENILLA GROUP, LLP
710 LAKEWAY DRIVE
SUITE 200
SUNNYVALE, CA 94085

EXAMINER
GRANO, ERNESTO ARTURIO

ART UNIT	PAPER NUMBER
3788	

MAIL DATE	DELIVERY MODE
01/25/2012	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Betty Powell

Patent Publication Branch
Office of Data Management

FORM PET651G (Rev. 08/07)

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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BLAKE, CASSELS & GRAYDON, LLP
199 BAY STREET , SUITE 2800
COMMERCE COURT WEST
TORONTO ON M5L 1A9 CA CANADA

MAILED

SEP 29 2010

OFFICE OF PETITIONS

In re Application of	:	
Farhad PEZESHKI, et *al.*	:	
Application No. 11/483,553	:	DECISION GRANTING PETITION
Filed: July 11, 2006	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **67539/00652**	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed September 28, 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 11, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 2434 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the amendment previously filed June 11, 2010.

/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.*

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 04/04/11

TO SPE OF : ART UNIT 1774

SUBJECT : Request for Certificate of Correction for Appl. No.: 11483711 Patent No.: 7504079

CofC mailroom date: 03/29/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (C of C)
Randolph Square 9D40-D
Palm Location 7580
You can fax the Directors/SPE response to 571-270-9990

Lamonte Newsome
Certificates of Correction Branch
571-272-3421

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☑ **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

/Walter D. Griffin/ 1774
SPE Art Unit

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MARSHALL, GERSTEIN & BORUN LLP
233 SOUTH WACKER DRIVE
6300 WILLIS TOWER
CHICAGO IL 60606-6357

MAILED
AUG 02 2011
OFFICE OF PETITIONS

In re Patent No. 7,504,079	:	
Issue Date: 17 March, 2009	:	
Application No. 11/483,711	:	ON PETITION
Filed: 10 July, 2006	:	
Attorney Docket No. 31132/42178	:	

This is a decision on the petition filed on 11 May, 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:

While Petitioner submitted the petition fee, he failed to submit or otherwise authorize the Certificate of Correction fee—the fee submitted in March addressed another matter, already resolved.

The petition is **DISMISSED**.

ANALYSIS

Congress has authorized the issuance of patents in the name(s) of the assignee(s):

> **35 U.S.C. §152 Issue of patent to assignee.**
> Patents may be granted to the assignee of the inventor of record in the Patent and Trademark Office, upon the application made and the specification sworn to by the inventor, except as otherwise provided in this title. (Emphasis supplied.)

The regulations at 37 C.F.R. §3.81 that set forth the applicable procedure:

§ 3.81 Issue of patent to assignee.

***

(b) *After payment of the issue fee:* An application may issue in the name(s) of the assignee(s) consistent with the application's assignment where a request for such issuance along with the processing fee set forth in § 1.17(I) of this chapter is submitted after the date of payment of the issue fee, but prior to issuance of the patent, provided the assignment has been previously recorded in the Office. If the assignment has not been previously recorded, the request should be accompanied by the assignment and either a direction to record the assignment in the Office pursuant to § 3.28, or a statement under § 3.73(b).
(c) *Partial assignees.*

***

(2) If multiple assignees hold the entire right, title, and interest to the exclusion of all the inventors, the patent may issue in the names of the multiple assignees. (Emphasis supplied.)

The commentary at MPEP §1481.01 provides that:

***

1481.01 Correction of Assignees' Names [R-3]

***

Any request for the issuance of an application in the name of the assignee submitted after the date of payment of the issue fee *** must:

(A) state that the assignment was submitted for recordation as set forth in 37 C.F.R. §3.11 before issuance of the patent;
(B) include a request for a certificate of correction under 37 C.F.R. §1.323 along with the fee set forth in 37 C.F.R. §1.20(a); and
(C) include the processing fee set forth in 37 C.F.R. §1.17(i).
See 37 C.F.R. §3.81(b).

Petitioner has submitted a form for correction, but appears not to have submitted or otherwise authorized the fee for the Certificate of Correction.

Patent No. 7,504,079
Application No. 11/483,711

CONCLUSION

Accordingly, the petition is **dismissed**.

The file is released to IFW Files Repository.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[1]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/ John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

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[1] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing.The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation,or understanding in relation to which there is disagreement or doubt.

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JUL 05 2011

OFFICE OF PETITIONS

MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP
300 S. WACKER DRIVE
32ND FLOOR
CHICAGO IL 60606

In re Application of	:	
Linsey Rosland	:	
Application No. 11/483,967	:	ON PETITION
Filed: July 11, 2006	:	
Attorney Docket No. 09-1297	:	

This is a decision on the petition under 37 CFR 1.182, filed June 20, 2011, to change the name of the inventor.

The petition is **GRANTED**.

The name of the inventor has been changed from **Linsey McKay** to **Linsey Rosland**.

The application file is being referred to the Office of Data Management for further processing.

Telephone inquiries regarding this decision may be directed to Kimberly Inabinet (571) 272-4618.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

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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
11/483,967	07/11/2006	3728	962	09-1297	20	3

CONFIRMATION NO. 7095

CORRECTED FILING RECEIPT

20306
MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP
300 S. WACKER DRIVE
32ND FLOOR
CHICAGO, IL 60606

OC000000048489668

Date Mailed: 06/29/2011

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)

Linsey Rosland, Plainfield, IL;

Power of Attorney: The patent practitioners associated with Customer Number 20306

Domestic Priority data as claimed by applicant

Foreign Applications (You may be eligible to benefit from the **Patent Prosecution Highway** program at the USPTO. Please see http://www.uspto.gov for more information.)

If Required, Foreign Filing License Granted: 08/02/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/483,967**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

BED SHEET STORAGE DEVICE

Preliminary Class

206

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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MCKENNA LONG & ALDRIDGE LLP
1900 K STREET, NW
WASHINGTON DC 20006

MAILED

FEB 23 2011

OFFICE OF PETITIONS

In re Patent No. RE39876	:	
Issued: October 9, 2007	:	
Application No. 11/484,027	:	ON PETITION
Filed: July 11, 2006	:	
Attorney Docket No. 32718.003.30 (60843-5001)	:	

This is a decision on the petition under 37 CFR 1.378(c), filed January 5, 2011, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This reissued patent expired on December 5, 2009 for failure to pay the seven 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.

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 delay in filing a timely response 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 in paying the maintenance fee was in fact unintentional, petitioner must make such an inquiry to ascertain that, in fact the delay was unintentional. If petitioner discovers that the delay in paying the maintenance fee was intentional, petitioner must so notify the Office.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAILED

MAR 11 2011

OFFICE OF PETITIONS

MCKENNA LONG & ALDRIDGE LLP
1900 K STREET, NW
WASHINGTON, DC 20006

In re Reissue Application of	:	
Claudio De Simone	:	
Reissue Application No. 11/484,028	:	ON PETITION
Filed: July 11, 2006	:	
Original Patent No. 6,277,370	:	
Original Issue Date: August 21, 2001	:	
For: PHARMACEUTICAL COMPOSITIONS CONTAINING LACTOBACILLI FOR TREATMENT OF VAGINAL INFECTIONS AND RELATED METHOD	:	

This is a decision on the petition under 37 CFR 1.378(c), filed January 5, 2011, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired for failure to pay the 7 ½ 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).

Petitioner has demonstrated to the satisfaction of the Director that the delay in timely paying the maintenance fee was unintentional. Accordingly, the maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that the delay in paying the maintenance fee under 37 CFR 1.378(c) was intentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6059.

The patent file is being forwarded to Files Repository.

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

JONDLE & ASSOCIATES P.C.
858 HAPPY CANYON ROAD SUITE 230
CASTLE ROCK CO 80108

In re Application of	:
Gray et al.	:
Application No. 11/484,119	: DECISION ON PETITION
Filed: July 11, 2006	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 1434-016	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed September 17, 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) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition does not comply with item (1).

The amendment as drafted is unacceptable and, therefore, is not considered a proper reference under 37 CFR 1.78(a)(2)(i). In order for an application to claim the benefit of a prior-filed copending nonprovisional application or international application designating the United States of America, each prior-filed application must name as an inventor at least one inventor named in the later-filed application and disclose the named inventor's invention claimed in at least one claim of the later-filed application in the manner provided by the first paragraph of 35 U.S.C.

112. Petitioner has claimed priority to application no. 10/423,295 which does not have at least one common inventor.

In addition, the reference to add the above-noted, prior-filed applications in the first sentence of the specification on page one following the title is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 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).

If reconsideration of this decision is desired, a renewed petition under 37 CFR § 1.78(a)(3) and an Application Data Sheet or an amendment (complying with the provisions of 37 CFR 1.121 and 37 CFR 1.76(b)(5)) to correct the above matters are required.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Charlema Grant at (571) 272-3215.

Christopher Bottorff
Supervisor
Office of 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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JUN 10 2011
OFFICE OF PETITIONS

JONDLE & ASSOCIATES P.C.
858 HAPPY CANYON ROAD SUITE 230
CASTLE ROCK CO 80108

In re Application of	:
Gray et al.	:
Application No. 11/484,119	: DECISION ON PETITIONS
Filed: July 11, 2006	: UNDER 37 CFR 1.78(a)(3) and 1.48
Attorney Docket No. 1434-016	:

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed February 11, 2011, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed with the petition. This petition decision will also address the petition under 37 CFR 1.48, filed June 16, 2010.

The petition under 37 CFR 1.78 is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition does not satisfy item(s) (1) above.

As to item (1), after review of the amendment submitted with the instant petition, the examiner has determined that the claim for priority will not be entered. An advisory action accompanies this decision.

Petition Under 37 CFR 1.48

37 CFR 1.48 requires that an amendment to the named inventive entity be accompanied by:

(1) A request to correct the inventorship that sets forth the desired inventorship change;

(2) A statement from each person being added as an inventor and from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part;

(3) An oath or declaration by the actual inventor or inventors as required by § 1.63 or as permitted by §§ 1.42, 1.43 or § 1.47;

(4) The processing fee set forth in § 1.17(i); and

(5) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see § 3.73(b).

The petition under 37 CFR 1.48 is **granted** as to the addition of inventor Lawrence K. Pierce.

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 Charlema Grant at (571) 272-3215.

Christopher Bottorff
Petition Examiner
Office of Petitions

Enclosures: Advisory Action and 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
11/484,119	07/11/2006	1782	2420	1434-016	26	6

CONFIRMATION NO. 7759

CORRECTED FILING RECEIPT

32905
JONDLE & ASSOCIATES, P.C.
858 HAPPY CANYON ROAD, SUITE 230
CASTLE ROCK, CO 80108

OC000000048085445

Date Mailed: 06/08/2011

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Robert P. Gray, Salinas, CA;
Dean Diefenthaler, Newbury Park, CA;
William Guy Munger JR., Salinas, CA;
Manuel L. Alcala, Oxnard, CA;
Daniel Saldivar, Oxnard, CA;
Lauri Duda Buckley, Oviedo, FL;
Lawrence K. Pierce, Aromas, CA;

Power of Attorney: The patent practitioners associated with Customer Number 32905

Domestic Priority data as claimed by applicant

Foreign Applications (You may be eligible to benefit from the **Patent Prosecution Highway** program at the USPTO. Please see http://www.uspto.gov for more information.)

If Required, Foreign Filing License Granted: 08/02/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/484,119**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: Yes

Title

Celery pack

Preliminary Class

426

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).

Advisory Action Before the Filing of an Appeal Brief	Application No. 11/484,119	Applicant(s) GRAY ET AL.	
	Examiner PRESTON SMITH	Art Unit 1782	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 11 February 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: *1-30*.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

Continuation of 3. NOTE: Applicant has submitted a petition under 37 CFR 1.78 to accept an unintentionally delayed claim for priority under 35 USC 120. This was done in an attempt to make the current application a continuation in part of the primary reference used in the final rejection and thus overcome the rejection. Since this would change the priority date of the current application and rule out the primary reference, further search and/or considerations would clearly be required..

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AUG 01 2011

OFFICE OF PETITIONS

JONDLE & ASSOCIATES P.C.
858 HAPPY CANYON ROAD SUITE 230
CASTLE ROCK CO 80108

In re Application of	:
Gray et al.	:
Application No. 11/484,119	: DECISION ON PETITION
Filed: July 11, 2006	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 1434-016	:

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed June 27, 2011, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed on February 11, 2011.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be

construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

The Office is in receipt of $130.00 towards the one month extension of time. In order to make the request for continued examination (RCE) timely, an additional two month extension of time is required. Accordingly deposit account 50-2368 will be charged the $980 difference for a total of $1,110.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Charlema Grant at (571) 272-3215. 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 1782 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed application.

Christopher Bottorff
Petition 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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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/484,119	07/11/2006	1782	2420	1434-016	26	6

CONFIRMATION NO. 7759

CORRECTED FILING RECEIPT

32905
JONDLE & ASSOCIATES, P.C.
858 HAPPY CANYON ROAD, SUITE 230
CASTLE ROCK, CO 80108

OC000000049033946

Date Mailed: 07/29/2011

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Robert P. Gray, Salinas, CA;
Dean Diefenthaler, Newbury Park, CA;
William Guy Munger JR., Salinas, CA;
Manuel L. Alcala, Oxnard, CA;
Daniel Saldivar, Oxnard, CA;
Lauri Duda Buckley, Oviedo, FL;
Lawrence K. Pierce, Aromas, CA;

Power of Attorney: The patent practitioners associated with Customer Number 32905

Domestic Priority data as claimed by applicant

This application is a CIP of 10/423,295 04/25/2003 ABN

Foreign Applications (You may be eligible to benefit from the **Patent Prosecution Highway** program at the USPTO. Please see http://www.uspto.gov for more information.)

If Required, Foreign Filing License Granted: 08/02/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/484,119**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: Yes

Title

Celery pack

Preliminary Class

426

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

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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).

11/484163

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20111029

DATE : November 1, 2011

TO SPE OF : ART UNIT 2816

SUBJECT : Request for Certificate of Correction on Patent No.: 7830194

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-910
Palm location **7590** - Tel. No. 305-8201

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ **Approved** **All** changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

SPE: /Lincoln Donovan/ **Art Unit** 2816

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450

MAILED
APR 19 2011
OFFICE OF PETITIONS

Edward E. Roberts
P.O. Box 3206
Dana Point, California 92629

In re Application of	:	
Edwin B. SMITH	:	DECISION GRANTING PETITION
Application No. 11/484,179	:	UNDER 37 CFR 1.137(b)
Filed: July 12, 2006	:	
Atty. Docket No.: 06EBS-01	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 13, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to nonfinal Office action mailed March 22, 2010 ("outstanding Office action"), which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. The application thus became abandoned on June 23, 2010, and a Notice of Abandonment was mailed October 6, 2010.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a Statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d).

The petition satisfies the conditions for revival pursuant to 37 CFR 1.137(b) by including (1) a reply in the form of a Response to the outstanding Office action, (2) a petition fee of $810 (small entity), and (3) a Statement of unintentional delay. The reply to the outstanding Office action is accepted as having been unintentionally delayed.

General inquiries relating to this decision should be directed to Robert DeWitty, Petitions Examiner, Office of Petitions (571-272-8427).

The application file will be referred to Technology Center Art Unit 1627 for further action on the filed Response.

Ramesh Krishnamurthy

for David Bucci
Petitions Examiner
Office of Petitions

PTO/SB/131 (01-10)
Approved for use through 02/28/2011. OMB 0651-0020
U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH**

Attorney Docket Number: 000451C1	Patent Number: 7,656,972
Filing Date (or 371(b) or (f) Date): 07-10-2006	Issue Date: 02-02-2010
First Named Inventor: Serge Willenegger	
Title: SYSTEM AND METHOD FOR TRANSMISSION FORMAT DETECTION	

PATENTEE HEREBY REQUESTS RECALCULATION OF THE PATENT TERM ADJUSTMENT (PTA) UNDER 35 USC 154(b) INDICATED ON THE ABOVE-IDENTIFIED PATENT. THE PATENTEE'S SOLE BASIS FOR REQUESTING THE RECALCULATION IS THE USPTO'S PRE-*WYETH* INTERPRETATION OF 35 U.S.C. 154(b)(2)(A).

Note: This form is only for requesting a recalculation of PTA for patents issued before March 2, 2010, if the sole basis for requesting the recalculation is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A). See Instruction Sheet on page 2 for more information.

Patentees are reminded that to preserve the right to review in the United States District Court for the District of Columbia of the USPTO's patent term adjustment determination, a patentee must ensure that he or she also takes the steps required under 35 U.S.C. 154(b)(3) and (b)(4) and 37 CFR 1.705 in a timely manner.

**Wyeth v. Kappos*, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).

Signature	Date 07-30-2010
Name (Print/Typed) Sayed H. Beladi	Registration Number 42311

***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

QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO, CA 92121

Mail Date: 08/11/2010

Applicant	: Serge Willenegger	: DECISION ON REQUEST FOR
Patent Number	: 7656972	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/484,232	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/10/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **491** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No.

MAILED
NOV 02 2011
OFFICE OF PETITIONS

APPLE INC./BSTZ
BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE CA 94085-4040

In re Application of :
Chen et al. : DECISION ON PETITION
Application No. 11/484,260 :
Filed: July 10, 2006 :
Atty Docket No. 04860.P3130D :

This is in response to the REQUEST FOR RECONSIDERATION OF HOLDING OF ABANDONMENT filed October 19, 2011, which is properly treated as a no-fee petition to withdraw the holding of abandonment.

The above-identified application became abandoned for failure to file a reply to the Office action mailed March 11, 2011. The non-final Office action set a three (3) month period for reply, with extensions of time obtainable under 37 CFR 1.136(a). No reply considered filed and no extension of time considered obtained, the application became abandoned effective June 12, 2011. A courtesy Notice of Abandonment was mailed on September 21, 2011.

In response, applicants timely filed the instant petition. Applicants maintain that the Notice of Abandonment was sent in error as they responded in a timely manner on July 11, 2011 (with a one-month extension of time). In support thereof, applicants submit a copy of their Electronic Acknowledgement Receipt. Applicants point out that the response and petition for extension of time are currently available for viewing in PAIR (and thus, are present in the image file wrapper of this application).

Applicants are correct. Their response, including an extension of time, is present in the application with a date of receipt of July 11, 2011.

Further, the finance records for this application show that the one-month extension of time received July 11, 2011 was processed and charged to the Deposit Account on July 12, 2011.

Accordingly, the holding of abandonment is hereby **WITHDRAWN**.

The petition under § 1.181 is **GRANTED**.

No fee is required on petition under § 1.181.

Technology Center Art Unit 2628 has been advised of this decision. The application is, thereby, forwarded to the Technology Center support staff to withdraw the holding of abandonment and for consideration by the examiner of the response timely filed July 11, 2011.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

MAILED
SEP 21 2011
OFFICE OF PETITIONS

In re Application of	:	
Heiman et al.	:	
Application No. 11/484,481	:	ON APPLICATION FOR
Filed: 07/11/2006	:	PATENT TERM ADJUSTMENT
Atty Docket No.	:	
17382US01	:	

This is in response to the "APPLICATION FOR RECONSIDERATION OF THE DETERMINATION OF PATENT TERM ADJUSTMENT UNDER 35 U.S.C. 154(b) ACCOMPANYING THE NOTICE OF ALLOWANCE (37 CFR § 1.705)," filed on August 19, 2011. Applicant asserts that the correct patent term adjustment is 801 days rather than 695 days as indicated in the Determination of Patent Term Adjustment Under 35 U.S.C. § 154(b) mailed with the notice of allowance.

The petition is **DISMISSED**.

Applicants assert that an additional period of 106 days of adjustment for Office delay should be entered, pursuant to 37 CFR 1.702(e), in connection with the notice of appeal filed on May 3, 2010. On August 16, 2010, 106 days after the notice of appeal was filed, a non-final Office action was mailed.

Applicants' argument has been considered, but is not persuasive.

37 CFR 1.702(e) states:

> *Delays caused by successful appellate review.* Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be

> adjusted if the issuance of the patent was delayed due to review by the Board of Patent Appeals and Interferences under 35 U.S.C. 134 or by a Federal court under 35 U.S.C. 141 or 145, if the patent was issued under a decision in the review reversing an adverse determination of patentability. If an application is remanded by a panel of the Board of Patent Appeals and Interferences and the remand is the last action by a panel of the Board of Patent Appeals and Interferences prior to the mailing of a notice of allowance under 35 U.S.C. 151 in the application, the remand shall be considered a decision by the Board of Patent Appeals and Interferences as that phrase is used in 35 U.S.C. 154(b)(1)(A)(iii), a decision in the review reversing an adverse determination of patentability as that phrase is used in 35 U.S.C. 154(b)(1)(C)(iii), and a final decision in favor of the applicant under § 1.703(e). A remand by a panel of the Board of Patent Appeals and Interferences shall not be considered a decision in the review reversing an adverse determination of patentability as provided in this paragraph if there is filed a request for continued examination under 35 U.S.C. 132(b) that was not first preceded by the mailing, after such remand, of at least one of an action under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151.

37 CFR 1.703(e) states:

> The period of adjustment under § 1.702(e) is the sum of the number of days, if any, in the period beginning on the date on which a notice of appeal to the Board of Patent Appeals and Interferences was filed under 35 U.S.C. 134 and § 41.31 of this title and ending on the date of a final decision in favor of the applicant by the Board of Patent Appeals and Interferences or by a Federal court in an appeal under 35 U.S.C. 141 or a civil action under 35 U.S.C. 145.

It is undisputed that on May 3, 2010, a notice of appeal was filed. On June 2, 2010, a Notice of Panel Decision from Pre-Appeal Brief Review was mailed, stating that the rejection is withdrawn and a new Office action would be mailed. On August 16, 2010, a non-final Office action was mailed. A decision by

pre-appeal brief conference panel to withdraw the rejections of any or all of the claims on appeal is not a decision by a panel of the Board of Patent Appeals and Interferences, and, as such, would not result in any patent term extension or adjustment under 35 U.S.C. 154(b). (37 CFR 1.701(a)(3) and 1.702(e)) See *Pre-Appeal Brief Pilot Program*, 1296 *Official Gazette* 67 (July 12, 2005). As such, applicant is not entitled to a period of adjustment for Office delay pursuant to 37 CFR 1.702(e).

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, Applicant is given one (1) month or thirty (30) days, whichever is longer, from the date of the final rule to file a request for reconsideration. No extensions of time will be granted under § 1.136.

In view thereof, no change will be made to the patent term adjustment at the time of the mailing of the notice of allowance.

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.

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) 272-3231.

Douglas I. Wood
Senior Petitions Attorney
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	11484521
Filing Date	11-Jul-2006
First Named Inventor	Mark Falahee
Art Unit	3775
Examiner Name	ANURADHA RAMANA
Attorney Docket Number	33939/57
Title	Percutaneous translaminar facet fixation system

◉ Please withdraw me as attorney or agent for the above identified patent application and the practitioners of record associated with Customer Number: 32642

The reason(s) for this request are those described in 37 CFR:

10.40(b)(4)

Certifications

☒ I/We have given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intend to withdraw from employment

☒ I/We have delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled

☒ I/We have notified the client of any responses that may be due and the time frame within which the client must respond

Change the correspondence address and direct all future correspondence to:
The address of the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71, associated with Customer Number: 102983

I am authorized to sign on behalf of myself and all withdrawing practitioners.

Signature	/R. Whitney Johnson/
Name	R. Whitney Johnson
Registration Number	62997

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Decision Date : February 13, 2012

In re Application of :

Mark Falahee

Application No : 11484521

Filed : 11-Jul-2006

Attorney Docket No : 33939/57

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY/AGENTOF RECORD

This is an electronic decision on the Request to Withdraw as attorney or agent of record under 37 CFR§ 1.36(b), filed February 13, 2012

The request is **APPROVED**

The request was signed by R. Whitney Johnson (registration no. 62997) on behalf of all attorneys/agents associated with Customer Number 32642 . All attorneys/agents associated with Customer Number 32642 have been withdrawn.

Since there are no remaining attorneys of record, all future communications from the Office will be directed to the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71, with Customer number 102983 .

As a reminder, requester is required to inform the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71 of the electronically processed petition.

Telephone inquiries concerning this decision should be directed to the Patent Electronic Business Center (EBC) at 866-217-9197.

Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 10/24/11

TO SPE OF : ART UNIT 2614

SUBJECT : Request for Certificate of Correction for Appl. No.: 11484526 Patent No.: 7813825

CofC mailroom date: 10/14/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580
[redacted]

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.

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:

2614

SPE **Art Unit**

PAGE 2/2 * RCVD AT 10/26/2011 11:26:20 AM [Eastern Daylight Time] * SVR:W-PTOFAX-002/44 * DNIS:2733421 * CSID: * DURATION (mm-ss):01-05

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 08/31/10

TO SPE OF : ART UNIT 2893

SUBJECT : Request for Certificate of Correction for Appl. No.: 11484603 Patent No.: 7728340

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: _____

/Davienne Monbleau/
SPE

2893
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No.

Quinn Emanuel Urquhart Oliver & Hedges, LLP
Koda/Androlia
865 S.Figueroa Street, 10th Floor
Los Angeles CA 90007

MAILED
MAR 28 2011
OFFICE OF PETITIONS

In re Application of	:	
Sukenari et al.	:	
Application No. 11/484,793	:	LETTER REGARDING
Filed: July 11, 2006	:	FEE DEFICIENCY PAYMENT
Atty Docket No. 181A 3890	:	

This is in response to the paper styled "Deposit Account No. re LETTER TO PAY DEFICIENCY OWED" filed January 31, 2011. This paper indicates that applicant filed another paper on January 31, 2011, notifying the Office of loss of entitlement to small entity status. No such letter is present in the application file. Nonetheless, this paper 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.

This letter includes an itemization of the fee deficiencies and payment as required by 37 CFR 1.28(c)(2)(ii).

Your notification of a loss of entitlement to small entity status is made of record and your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3219.

Nancy Johnson

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 11/08/11

TO SPE OF : ART UNIT 2447

SUBJECT : Request for Certificate of Correction for Appl. No.: 11484807 Patent No.: 8037160

CofC mailroom date: 11/02/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580
You can fax the Directors/SPE response to 571-273-3421

Note: Should the changes to claim 16 be approved?

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

X Approved — **All** changes apply.

❑ **Approved in Part** — Specify below which changes **do not** apply.

❑ **Denied** — State the reasons for denial below.

Comments: Approved - All changes apply

/Joon H. Hwang/ — 2447

SPE — **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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HOGAN LOVELLS US LLP
ONE TABOR CENTER, SUITE 1500
1200 SEVENTEENTH ST
DENVER CO 80202

MAILED
JUL 08 2011
OFFICE OF PETITIONS

In re Application of	:	
David Atwell et al.	:	
Application No. 11/484,825	:	DECISION ON PETITION
Filed: July 11, 2006	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. **026484-000110US**	:	

This is a decision on the petition, filed April 12, 2011, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on July 25, 2006. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of

such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of October 13, 2011 accompanies this decision on petition.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at (571) 272-2783.

This application is being forward to Technology Center Art Unit 3773 for examination in due course.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/484,825	07/11/2006	David Atwell	026484-000110US

CONFIRMATION NO. 9414

25235
HOGAN LOVELLS US LLP
ONE TABOR CENTER, SUITE 1500
1200 SEVENTEENTH ST
DENVER, CO 80202

NONPUBLICATION RESCISSION LETTER

OC000000048619705

Date Mailed: 07/07/2011

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 10/13/2011.

If applicant rescinded the nonpublication request before or on the date of "foreign filing,"[1] then no notice of foreign filing is required.

If applicant foreign filed the application after filing the above application and before filing the rescission, and the rescission did not also include a notice of foreign filing, then a notice of foreign filing (not merely a rescission) is required to be filed within 45 days of the date of foreign filing. See 35 U.S.C. § 122(b)(2)(B)(iii), and Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. § 122(b)(2)(B)(ii)-(iv), 1272 Off. Gaz. Pat. Office 22 (July 1, 2003).

If a notice of foreign filing is required and is not filed within 45 days of the date of foreign filing, then the application becomes abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii). In this situation, applicant should either file a petition to revive or notify the Office that the application is abandoned. See 37 CFR 1.137(f). Any such petition to revive will be forwarded to the Office of Petitions for a decision. Note that the filing of the petition will not operate to stay any period of reply that may be running against the application.

Questions regarding petitions to revive should be directed to the Office of Petitions at (571) 272-3282.

[1] Note, for purpose of this notice, that "foreign filing" means "filing an application directed to the same invention in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing".

/tdjackson/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

THE PROCTER & GAMBLE COMPANY
Global Legal Department - IP
Sycamore Building - 4th Floor
299 East Sixth Street
CINCINNATI OH 45202

MAILED

AUG 02 2010

OFFICE OF PETITIONS

In re Application of	:	
Marco Digiacomantonio, et al.	:	
Application No. 11/484,963	:	DECISION ON PETITION
Filed: July 12, 2006	:	
Attorney Docket No. 10136M	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 21, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before June 23, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed March 23, 2010. Accordingly, the date of abandonment of this application is June 24, 2010. The Notice of Abandonment was mailed July 12, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,510 and the publication fee of $300, (2) the petition fee of $1,620; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Terri Johnson at (571) 272-2991.

This application is being referred to the Office of Data Management for processing into a patent.

Terri Johnson

Terri Johnson
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

TOKYO ELECTRON U.S. HOLDINGS, INC.
4350 WEST CHANDLER BLVD.
SUITE 10/11
CHANDLER AZ 85226

MAILED
NOV 04 2010
OFFICE OF PETITIONS

In re Application of	:	
Jeffrey A. Chard et al.	:	
Application No. 11/484,974	:	DECISION ON PETITION
Filed: July 11, 2006	:	
Attorney Docket No. **TTI-116**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 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 Notice of Non-Compliant amendment (Notice) mailed, October 19, 2009, which set a shortened statutory period for reply of one (1) month or thirty (30) days whichever is longer. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on November 20, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1620, and (3) a proper statement of unintentional delay. Accordingly, the reply to the Notice 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 2173 for appropriate action on the concurrently filed amendment.

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

VOLPE AND KOENIG, P.C.
UNITED PLAZA
30 SOUTH 17TH STREET
PHILADELPHIA PA 19103

MAILED
JUN 23 2011
OFFICE OF PETITIONS

In re Patent No. 7,231,912 :
Simon Benjamin Stevens :
Application No. 11/485,067 : NOTICE
Filed: July 12, 2006 :
Attorney Docket No. NPS-PT020.2 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 on March 11, 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 08/02/11

TO SPE OF : ART UNIT 1795

SUBJECT : Request for Certificate of Correction on Patent No.: 7811707
11/485068

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:

Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**

If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**

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 (COCIN)? Please review the new claimes

Delora Dillard

Thank You For Your Assistance

Certificates of Correction Branch

Tel. No. 703-756-1577

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 Examiner notes that the Notice of Allowance mailed August 31, 2010 allowed 28 claims, but the Patent was issued with only 14 claims. This Correction will allow the Patent to be issued with all 28 claims that were originally allowed

/Barbara Gilliam/
1727

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

PATENT DOCKET ADMINISTRATOR
LOWENSTEIN SANDLER PC
65 LIVINGSTON AVENUE
ROSELAND, NJ 07068

MAILED
FEB 14 2011
OFFICE OF PETITIONS

In re Application of
David Nocera, et al.
Application No. 11/485,088
Filed: July 12, 2006
Attorney Docket No. 19075-29

DECISION ON PETITION

This is a decision on the petition, filed April 20, 2007, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the Notice to File Missing Parts of Non-provisional Application (Notice) mailed August 3, 2006, which set a two (2) month shortened statutory period for reply. A Notice of Abandonment was mailed on April 6, 2007.

Petitioner asserts that the Office action dated August 3, 2006 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**.

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 Office of Patent Application Processing at their hotline 571-272-4000.

This application is being referred to the Office of Patent Application Processing for re-mailing the Notice of August 3, 2006. The period for shortened statutory period for reply will run from the mailing date of the Notice.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED
SEP 07 2011
OFFICE OF PETITIONS

ROBERT C CURFISS
LAW OFFICE OF ROBERT CURFISS
19826 SUNDANCE DRIVE
HUMBLE TX 77346-1402

In re Application of	:	
David A. Monroe	:	
Application No. 11/485,100	:	ON PETITION
Filed: July 12, 2006	:	
Attorney Docket No. Monroe 100	:	

This is a decision on the petition to revive under 37 CFR 1.137(b), filed June 2, 2011.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The above application became abandoned for failure to timely file a reply in response to the non-final Office action, mailed May 4, 2010. This Office action set a shortened statutory period for reply of three (3) months. No reply having been received, the application became abandoned on August 5, 2010. The Office mailed a Notice of Abandonment on November 10, 2010.

With the instant petition, applicant made the proper statement of unintentional delay, paid the petition fee, and filed an Amendment.

Pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the $555.00 extension of time fee submitted with the petition on June 2, 2011 was subsequent to the maximum period obtainable for reply (November 4, 2010), this fee has been refunded to petitioner's credit card.

The application is being forwarded to Group Art Unit 2483 for consideration of the Amendment, filed June 2, 2011.

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 08-09-11

TO SPE OF : ART UNIT 2166

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/485170 Patent No.: 7933311

CofC mailroom date: 08-22-11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square - 9D10-A
Palm Location 7580

Note: _____

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 Sharon Lin Art Unit 2611

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

EDWARD M. LIVINGSTON, PA
963 TRAIL TERRACE DRIVE
NAPLES, FL 34103

MAILED

MAY 11 2011

OFFICE OF PETITIONS

In re Application of
Roger F. Nation
Application No. 11/485,213
Filed: July 12, 2006
Attorney Docket No.: 06-5963

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 reply in a timely manner to the non-final Office action mailed, August 6, 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 November 7, 2008. A Notice of Abandonment was mailed on March 3, 2009. On April 4, 2011, the present petition was filed.

This application has been abandoned for an extended period of time. The U.S. Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." *See* Changes to Patent Practice and Procedure, 62 Fed. Reg., at 53160 and 53178; 1203 Off. Gaz. Pat. Office, at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the U.S. Patent and Trademark Office).

The petition satisfies the 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 an amendment; (2) the petition fee of $810; and (3) an adequate statement of unintentional delay.

The application is being referred to Technology Center AU 3634 for consideration of the amendment filed 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

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: 114731-US-NP	Patent Number: 7,656,944
Filing Date (or 371(b) or (f) Date): July 13, 2006	Issue Date: February 2, 2010
First Named Inventor: Bernd Franz	
Title: Receiver for an optical signal	

PATENTEE HEREBY REQUESTS RECALCULATION OF THE PATENT TERM ADJUSTMENT (PTA) UNDER 35 USC 154(b) INDICATED ON THE ABOVE-IDENTIFIED PATENT. THE PATENTEE'S SOLE BASIS FOR REQUESTING THE RECALCULATION IS THE USPTO'S PRE-*WYETH* INTERPRETATION OF 35 U.S.C. 154(b)(2)(A).

Note: This form is only for requesting a recalculation of PTA for patents issued before March 2, 2010, if the sole basis for requesting the recalculation is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A). See Instruction Sheet on page 2 for more information.

Patentees are reminded that to preserve the right to review in the United States District Court for the District of Columbia of the USPTO's patent term adjustment determination, a patentee must ensure that he or she also takes the steps required under 35 U.S.C. 154(b)(3) and (b)(4) and 37 CFR 1.705 in a timely manner.

**Wyeth v. Kappos*, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).

Signature /Gregory J. Murgia/	Date August 1, 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

Carmen Patti Law Group, LLC
One N. LaSalle Street
44th Floor
Chicago, IL 60602

Mail Date: 08/12/2010

Applicant	: Bernd Franz	: DECISION ON REQUEST FOR
Patent Number	: 7656944	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/485,297	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/13/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **706** 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

K&L Gates LLP
P. O. BOX 1135
CHICAGO IL 60690

MAILED

MAR 21 2011

OFFICE OF PETITIONS

In re Patent No. 7,602,463 :
Issue Date: October 13, 2009 :
Application No. 11/485,382 : DECISION ON PETITION
Filed: July 13, 2006 :
Attorney Docket No. 3712174-02086 :

This is a decision on the Request Under 37 C.F.R. §3.81(b) and Request For Certificate of Correction Under Rule 323, filed December 3, 2009, which is being treated as a Petition Under 37 CFR §3.81(b), to identify the correct assignee's name and city. 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 assignee's name and city 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 assignee's name and city identified thereon from:

"Sanyo Epson Imaging Devices Corp., Tokyo (JP)"

to:

--Epson Imaging Devices Corporation, Azumino (JP)--

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.

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.

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. 7,602,463.

Cheryl Gibson Baylor

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

cc: Oliff & Berridge, PLC
P.O. Box 320850
Alexandria, Virginia 22320-4850

Doc Code: PET.RELIEF
Document Description: Certification and Request for Disaster Relief

PTO/SB/425 (03-11)

CERTIFICATION AND REQUEST FOR RELIEF DUE TO EVENTS OF MARCH 11, 2011, IN JAPAN (Page 1 of 2)

Nonprovisional Application Number or Control Number (if applicable): 11/485,446	Patent Number (if applicable):
First Named Inventor: SATOU, et al.	Title of Invention: IONIC CONDUCTIVE SIDE-CHAIN-TYPE POLYMER ELECTROLYTE.....

APPLICANT/PATENTEE/REEXAMINATION PARTY HEREBY CERTIFIES AND REQUESTS THE FOLLOWING FOR THE ABOVE-IDENTIFIED APPLICATION/PATENT/REEXAMINATION PROCEEDING.

1. FOR PATENT APPLICATIONS AND REEXAMINATION PROCEEDINGS PENDING IN THE USPTO AS OF MARCH 11, 2011, IN WHICH A COMMUNICATION FROM THE USPTO IS SOUGHT TO BE REMAILED:

   a. One or more inventors, an assignee, or a correspondence address (for the application/proceeding) is in an area of Japan affected by the earthquake and/or tsunami of March 11, 2011.

   b. A reply or response to an Office action (final, non-final, or other), a notice of allowance, or other Office notice (hereinafter collectively referred to as "Office communication") is outstanding on March 11, 2011.

   c. The statutory or non-statutory time period set for response has not yet expired.

   d. Withdrawal and reissuance of the Office communication is requested.

   e. It is acknowledged that if this request is not made within sufficient time so that withdrawal and reissuance of the Office communication occur prior to expiration of the statutory or non-statutory time period (as permitted to be extended under 37 CFR 1.136(a), or as extended under 37 CFR 1.550(c) or 1.956), this request may not be granted.

   f. The need for the reissuance of the Office communication was due to the effects of the earthquake and/or tsunami of March 11, 2011.

   g. This request is being sent via EFS-Web or by mail directed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

2. FOR PATENTEES WHO WERE UNABLE TO TIMELY PAY A PATENT MAINTENANCE FEE DURING THE SIX-MONTH GRACE PERIOD FOLLOWING THE WINDOW TO PAY THE MAINTENANCE FEE:

   a. The original window of time to pay the maintenance fee without the surcharge required by 37 CFR 1.20(h) expired on or after March 11, 2011.

   b. The delay in paying the fee was due to the effects of the earthquake and/or tsunami of March 11, 2011.

   c. The USPTO is requested to *sua sponte* waive the surcharge in 37 CFR 1.20(h) for paying a maintenance fee during the six-month grace period following the window to pay the maintenance fee.

   d. This request and payment of the maintenance fee during the six-month grace period following the window to pay the maintenance fee is being mailed to: Director of the United States Patent and Trademark Office, Attn: Maintenance Fee, 2051 Jamieson Avenue, Suite 300, Alexandria, VA 22314; or being transmitted via facsimile to: 571-273-6500.

CERTIFICATION AND REQUEST FOR RELIEF DUE TO EVENTS OF MARCH 11, 2011, IN JAPAN (Page 2 of 2)

3. FOR PATENTEES WHO NEED TO FILE A PETITION TO ACCEPT A DELAYED MAINTENANCE FEE PAYMENT UNDER 37 CFR 1.378(c):

   a. The maintenance fee payment was required to have been paid after March 10, 2011.

   b. A petition under 37 CFR 1.378(c) (using USPTO form PTO/SB/66 – Petition to Accept Unintentionally Delayed Payment of Maintenance Fee in an Expired Patent (37 CFR 1.378(c))) is being promptly filed accompanied by the applicable maintenance fee payment (but not the surcharge under 37 CFR 1.20(i)).

   c. The delay in payment of the maintenance fee was due to the effects of the earthquake and/or tsunami of March 11, 2011.

   d. The USPTO is requested to *sua sponte* waive the surcharge in 37 CFR 1.20(i) for accepting a delayed maintenance fee payment.

   e. It is acknowledged that the petition to accept a delayed maintenance fee payment under 37 CFR 1.378(c) must be filed by March 11, 2012, in order to be entitled to a waiver of the surcharge under 37 CFR 1.20(i).

   f. It is acknowledged that the petition to accept a delayed maintenance fee payment under 37 CFR 1.378(c) must be filed within twenty-four months from the expiration date of the patent. *See* 35 U.S.C 41(c).

   g. This request and the petition to accept a delayed maintenance fee payment under 37 CFR 1.378(c) is being submitted via EFS-Web or by mail directed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

4. FOR NONPROVISIONAL PATENT APPLICATIONS FILED WITHOUT AN EXECUTED OATH OR DECLARATION OR PAYMENT OF THE BASIC FILING FEE, SEARCH FEE, AND/OR EXAMINATION FEE:

   a. The nonprovisional patent application was filed on or after March 11, 2011, and prior to April 12, 2011.

   b. The late filing of the oath or declaration or the basic filing fee, search fee, or examination fee was due to the effects of the earthquake and/or tsunami of March 11, 2011.

   c. The USPTO is requested to *sua sponte* waive the surcharge set forth in 37 CFR 1.16(f) for the late filing of the oath or declaration or basic filing fee, search fee, and/or examination fee.

   d. This request, together with the executed oath or declaration or the basic filing fee, search fee, or examination fee, as well as the reply to the Notice to File Missing Parts, is being submitted via EFS-Web or by mail directed to Mail Stop Missing Parts, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Signature /Alan E. Schiavelli/	Date 7-5-2011
Name (Print/Typed) Alan E. Schiavelli	Practitioner Registration Number 32,087

Note: *Signatures of all the inventors, § 1.41(b) applicants, or assignees of record of the entire interest or their representative(s), or reexamination requesters at the appeal stage are required in accordance with 37 CFR 1.33 and 11.18. Please see 37 CFR 1.4(d) for the form of the signature. If necessary, submit multiple forms for more than one signature, see below*.*

☐ *Total of 1 forms are submitted.

UNITED STATES 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
JUL 07 2011
OFFICE OF PETITIONS

In re Application of	:	
Satou et al.	:	
Application No. 11/485,446	:	DECISION ON PETITION
Filed: July 13, 2006	:	
Attorney Docket No. 1021.46382X00	:	

This is a decision on the request filed July 5, 2011, seeking relief under the provisions of "Relief Available to Patent and Trademark Applicants, Patentees and Trademark Owners Affected by the Catastrophic Events of March 11, 2011 in Japan," 1365 Off. Gaz. Pat. Office 170 (April 19, 2011).

The request for relief is **GRANTED**.

In the above-identified application, an Office action was mailed on February 16, 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 1727 for re-mailing the Office action of February 16, 2011. The period for reply will run from the mailing date of the Office action.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

INGRASSIA FISHER & LORENZ, P.C. (GME)
7010 E. COCHISE ROAD
SCOTTSDALE AZ 85253

MAILED
FEB 16 2011
OFFICE OF PETITIONS

In re Application of	:	
Geyrhoffer et al.	:	
Application No. 11/485,529	:	DECISION ON PETITION
Filed: July 13, 2006	:	
Attorney Docket No. 060.0101US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 12, 2011, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed March 31, 2010, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 41.37(b). As no claim was allowed, the application became abandoned on June 1, 2010. See MPEP 1215.04. A Notice of Abandonment was mailed December 14, 2010.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lacks item (1).

With respect to item (1), petitioner has failed to submit the required reply. The proposed reply required for consideration of a petition to revive must be an appeal brief under 37 CFR 41.37 and the appeal brief fee required by 37 CFR 41.20(b)(2), a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b).

Petitioner must now submit a proper reply as described above.

Additionally, it is noted that petitioner has submitted Arguments Accompanying Pre-Appeal Brief Request For Review, however as explained above this is not a proper reply.

Further, petitioner has submitted an unnecessary duplicate $540.00 Notice of Appeal fee. This fee will be refunded to petitioner's deposit account in due course.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: U.S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

MAILED
SEP 08 2010
OFFICE OF PETITIONS

MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

In re Patent No. 7,659,900
Issued: February 9, 2010
Application No. 11/485,582
Filing Date: July 12, 2006
Dkt. No.: 17409US04

: ON APPLICATION FOR PATENT TERM
: ADJUSTMENT and NOTICE OF INTENT
: TO ISSUE CERTIFICATE OF
: CORRECTION
:

This is a decision on the petition filed on June 10, 2010, seeking reconsideration of the decision mailed May 10, 2010, requesting that the patent term adjustment be increased from 539 days to 581 days.

To the extent patentee seeks reconsideration of the decision mailed May 10, 2010, the petition is **GRANTED**.

To the extent that patentee seeks an increase in the patent term adjustment from 539 days to 581 days, the petition is **DISMISSED**.

The above-identified application matured into U.S. Patent No. 7,659,900 on February 9, 2010. The instant request for reconsideration was timely submitted within one month of the mail date of the May 10, 2010 decision. Patentee asserts entitlement to a "B" delay of 181 days (212 days of "B" delay reduced 31 days for time consumed by appeal). Thus, patentee asserts that the patent is entitled to an overall adjustment of 581 days.

Herein follows the result of the review of the calculation of adjustment which results in an overall patent term adjustment of 538 days.

The patent is entitled to an adjustment of 432 days per § 1.702(a)(1), from September 13, 2007 to November 17, 2008.

The patent is entitled to an adjustment of 212 days per § 1.702(b), from July 13, 2009 to February 9, 2010.

In accordance with § 1.702(b)(4) and § 1.703(b)(4), the period of adjustment under § 1.702(b) is reduced 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.

Accordingly, the period of adjustment per § 1.702(b) of 212 days is properly reduced 74 days, from July 7, 2009 to September 18, 2009. See, § 1.703(b)(4).

As to patentee's argument that the period at issue runs from July 7, 2009 to August 7, 2009, the date that the Pre-Appeal Brief Conference Decision was mailed, patentee's argument has been carefully considered, but is not found persuasive. It is specifically set forth at § 1.703(b)(4) that the time period runs from the date that the Notice of Appeal is filed until the date of either a "last decision by the Board of Patent Appeals and Interferences or by a Federal court in an appeal under 35 U.S.C. 141 or a civil action under 35 U.S.C. 145, or on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first, if the appeal did not result in a decision by the Board of Patent Appeals and Interferences."

The Pre-Appeal Brief Conference Decision is not a decision by the Board, a federal court, or an action under 35 USC 132. Thus, the Pre-Appeal Brief Conference Decision is not controlling for the purposes of calculating the patent term adjustment under § 1.702(b) and § 1.703(b).

In view thereof, at the time of allowance, the patent was entitled to an overall adjustment of 538 days (432 under § 1.702(a)(1) + 212 under § 1.702(b) – 74 days under § 1.702(b)(4) – 32 days of applicant delay under § 1.704).

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Corrections Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by 538 days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,659,900

DATED : **February 9, 2010** **DRAFT**

INVENTOR(S) : MacInnis, 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 400 days

Delete the phrase "by 400 days" and insert – by 538 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/485,619	07/11/2006	W. Daniel Hillis	1203-004-001E-C00001	1660

71484 7590 02/25/2011
IV - SUITER SWANTZ PC LLO
14301 FNB PARKWAY , SUITE 220
OMAHA, NE 68154

EXAMINER
VU, QUYNH-NHU HOANG

ART UNIT	PAPER NUMBER
3763	

MAIL DATE	DELIVERY MODE
02/25/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

IV - SUITER SWANTZ PC LLO
14301 FNB PARKWAY , SUITE 220
OMAHA NE 68154

In re Application of:
HILLIS, W. DANIEL et al
Serial No.: 11/485,619
Filed: July 11, 2006
Docket: 1203-004-001E-C00001
Title: CONTROLLABLE RELEASE NASAL SYSTEM

DECISION ON PETITION TO REVIEW RESTRICTION REQUIREMENT UNDER 37 CFR 1.144

This is a decision on the petition filed February 16, 2011 to review the election of species requirement promulgated in April 6, 2010 Office action. The petition is being considered pursuant to 37 CFR 1.181 and CFR 1.144 and no fee is required for the petition.

The petition is **GRANTED**.

In the February 16, 2011 petition, petitioner requests the examiner to reconsider the election of species requirement of April 16, 2010 because the examiner did not clearly identify the disclosed species.

After consulting with the examiner, it is agreed that that the election of species should be withdrawn at this time. As such, the election of species requirement in the letter of April 6, 2010 is hereby withdrawn.

Since all claims 126-149 as originally presented have been examined with no unexamined claims in the case, the application is being forwarded to the examiner via the Supervisory Patent Examiner of Art Unit 3763 awaiting the applicant's appeal notice and appeal brief. 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 C. Yuen, Special Programs Examiner, at (571) 272-4856.

PETITION GRANTED.

Angela D. Sykes

Angela D. Sykes, Director
Technology Center 3700

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 02/17/11

TO SPE OF : ART UNIT: 3625 Attn: SMITH JEFFREY A (SPE)

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/485622 Patent No.: 7853472

CofC Mailroom date: 02/08/11

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

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.

- ☑ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

JEFFREY A. SMITH
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

SPE — 3625 **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

HOGAN LOVELLS US, LLP
IP GROUP, COLUMBIA SQUARE
555 THIRTEENTH STREET, N.W.
WASHINGTON, DC 20004

MAILED

DEC 29 2010

OFFICE OF PETITIONS

In re Application of
Jaime Li, et. al.
Application No. 11/485,632
Filed: July 13, 2006
Attorney Docket No. 82064-0016

DECISION DISMISSING PETITIONS
UNDER 37 CFR 1.78(a)(3) AND (a)(6)

This is a decision on the petition under 37 CFR §§ 1.78(a)(3) filed September 8, 2010, which is being treated as a petition filed under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of priority to the prior-filed nonprovisional and provisional 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 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[1].

The present petition lacks item (1) above.

Petitioner asserts that Deron Simpson and Lisa Winckler are named inventors on the parent application of 10/455,942, "as well as Cons I and II." However, a review of the record fails to show common inventorship between this present application, Application Serial Number 10/455,942 and the other applications mentioned in the amendment filed on September 8, 2010. Therefore, the petition is dismissed.

[1] 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) require a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. Since the statement appearing in the petition varies from the required language, the statement is being construed as the statement required by 37 CFR §§1.78(a)(3) and 1.78(a))(6). If this is not a correct reading of the statement appearing in the petition, petitioner should promptly notify the Office.

Before the petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) can be granted, a renewed petition and either an Application Data Sheet (ADS) or a substitute amendment (complying with the provisions of 37 CFR 1.121 and 37 CFR 1.76(b)(5)) to correct the above matter is required.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED
DEC 19 2011
OFFICE OF PETITIONS

MUETING, RAASCH & GEBHARDT, P.A.
P.O. BOX 581336
MINNEAPOLIS MN 55458-1336

In re Patent No. 7,648,926	:	
Issue Date: January 19, 2010	:	
Application No. 11/485,770	:	ON PETITION
Filed: July 13, 2006	:	
Attorney Docket No. 150.01340102	:	

This is a decision on the petition under 37 CFR 1.182, filed November 18, 2011, requesting issuance of a duplicate Letters Patent for the above-identified patent.

The petition is **GRANTED**.

The Office of Data Management is directed to issue a duplicate Letters Patent.

Telephone inquiries concerning this decision may be directed to Kimberly Inabinet at (571) 272-4618. Inquiries regarding the issuance of a duplicate Letters Patent may be directed to the Office of Data Management at (571) 272-4200.

The 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.

A copy of this decision is being forwarded to the Publishing Division for issuance of duplicate Letters Patent.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

cc: Ollie Person (Fax - 571-270-9764)
Kimberly Terrell (Fax - 571-270-9958)

cc: Jennifer J. Taylor Ph.D.
Wells St. John P.S.
601 W. First Avenue, Suite 1300
Spokane, WA 99201-3828

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 7/19/2011

TO SPE OF : ART UNIT 2435

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/485807 Patent No.: 7926110 B2

CofC mailroom date: 7/11/2011

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: Proposed amendment in submitted request for certificate of correction is consistent with examiner's amendment on 1/10/11 and should be entered. Presumably the error being corrected was due to a typo on PTO's part when the patent was printed.

-PP 8/3/11

/Kimyen Vu/ — **SPE**

2435 — **Art Unit**

ICEMILLER LLP
LEGAL COUNSEL

December 30, 2010

OK TO ENTER: /S.S./

/S.S./ 04/06/2011

WRITER'S DIRECT NUMBER: (317) 236-2363
DIRECT FAX: (317) 592-4223
INTERNET: WILLIAM.LYON@ICEMILLER.COM

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

VIA ELECTRONIC FILING

Attn: Certificate of Corrections Branch
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

I hereby certify that this paper or fee is being transmitted electronically to Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, through the EFS-Web Filing System, on December 30, 2010.

William R. Lyon
Printed or typed Name of person signing certificate

William R. Lyon
(Signature)

December 30, 2010
Date of Signature

Re:	Invention:	NUCLEIC ACID MELTING ANALYSIS WITH SATURATION DYES
	Inventor:	DUJOLS, Virginie E.
	Patent No.:	7,456,281
	Issued:	November 25, 2008
	Serial No.:	11/485,851
	Filed:	July 13, 2006
	Art Unit:	1626
	Confirmation No.:	4880
	Our Docket:	P00922-US-01 (21932.0014)

REQUEST FOR CERTIFICATE OF CORRECTION

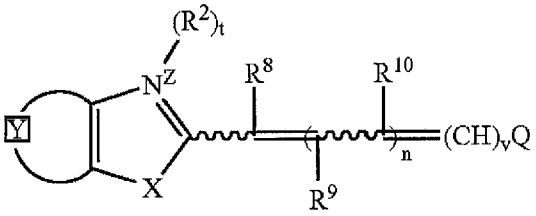
Pursuant to 35 U.S.C. § 254, please find enclosed a Certificate of Correction (PTO/SB/44) for the above-referenced patent ("the Patent"). Applicant respectfully submits that a mistake incurred through the fault of the U.S. Patent and Trademark Office (the "Patent Office") on claim 21 of the Patent. Applicant respectfully submits that the issuance of a Certificate of Correction is appropriate because this is an error of consequence, and would not require reexamination of the Patent.

I. The Mistakes Incurred Through The Fault Of The Patent Office Should Be Corrected

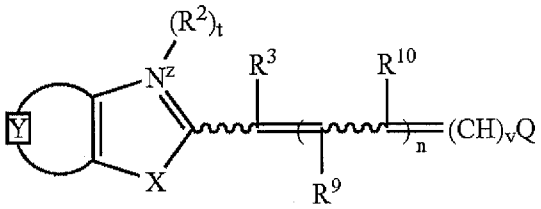
Applicant respectfully submits that the mistake incurred through the fault of the Patent Office appearing in claim 21 of the Patent, should be corrected by the issuance of a Certificate of Correction. The Director of the Patent Office "may issue a certificate of correction pursuant to 35 U.S.C. § 254 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 applicant or the applicant's assignee..." (37 C.F.R. § 1.322, *see also*, MPEP § 1480). Applicant respectfully submits that the mistake appearing in claim 1 of the Patent was incurred through the fault of the Patent Office and are clearly disclosed in the file wrapper of the Patent.

a. The Mistake Appearing In Claim 21 Of The Patent Should Be Corrected

Applicant respectfully requests that the structure included below,



appearing in claim 1 of the Patent (column 85, line 37-43), be amended with the following structure.



Applicant respectfully submits that the structure properly appeared in claim 21 as submitted through an Examiner's Amendment by Examiner Shterengarts in the Notice of Allowance and Fees Due dated July 9, 2008. From this Examiner's Amendment, the variable "R^3" in the chemical structure of claim 21 was translated to be "R^8" sometime during the process of printing. Applicant further submits that R^3 must be the correct chemical motif for claim 21 given that R^3 is a defined variable for this chemical structure and R^8 is not. Accordingly, pursuant to 37 C.F.R. §1.322, Applicant requests the correction of this error because it occurred during the printing of the patent.

CONCLUSION

Applicant respectfully submits that the issuance of the Certificate of Correction is appropriate for the Patent Office's error in printing the Patent because all the requirements for the issuance of the Certificate of Correction have been met and the requested correction does not constitute new matter or require reexamination of the Patent. Accordingly, Applicant respectfully requests that the Certificate of Correction be issued.

Applicant believes that no additional fee is required for the submission of this Request for Certification of Correction. However, in the event Applicant has inadvertently overlooked the need for the payment of an additional fee, Applicant conditionally petitions therefor, and authorizes any fee deficiency to be charged to deposit account 09-0007. When doing so, please reference our docket number P00922-US-01 (21932.0014). Should there be any questions, Applicant respectfully requests that the Examiner contact the undersigned at his or her convenience.

Respectfully submitted,

ICE MILLER LLP

William R. Lyon
Registration No.: 57,124
ICE MILLER LLP
One American Square, Suite 2900
Indianapolis, Indiana 46282-0200
(317) 236-2363

WRL/

Enclosures: Certificate of Correction (PTO/SB/44)

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. : 7,456,281

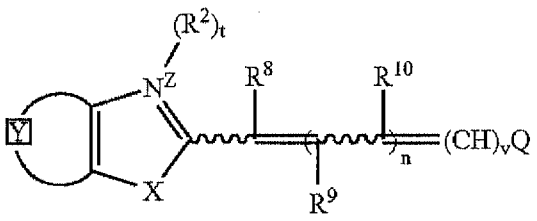
APPLICATION NO.: 11/485,851

ISSUE DATE : November 25, 2008

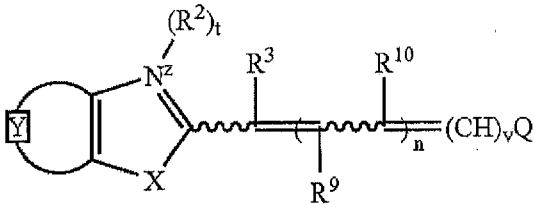
INVENTOR(S) : DUJOLS, Virginie E.

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:

Applicants respectfully request that the structure included below,



appearing in claim 1 of the Patent (column 85, line 37-43), be amended with the following structure.



MAILING ADDRESS OF SENDER (Please do not use customer number below):

One American Square, Suite 3100
Indianapolis, Indiana 46282

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.:20110406

DATE : January 04, 2011

TO SPE OF : ART UNIT 1626

SUBJECT : Request for Certificate of Correction on Patent No.: 7,456,281

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - ST (South Tower) 9A22
Palm location **7590** - Tel. No. (703) 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriated box.

☒ **Approved** All changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

/Joseph K. McKane/
Supervisory Patent Examiner, Art Unit 1626

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110303

DATE : March 03, 2011

TO SPE OF : ART UNIT 2617

SUBJECT : Request for Certificate of Correction on Patent No.: 7,599,320

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:

/Dwayne D Bost/
Supervisory Patent Examiner.Art Unit 2617

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

VYSIS, INC
PATENT DEPARTMENT
1300 E TOUHY AVENUE
DES PLAINES IL 60018

MAILED
SEP 15 2011
OFFICE OF PETITIONS

In re Application of	:	
Robert W. Jaekel et al.	:	
Application No. 11/485,901	:	ON PETITION
Filed: July 13, 2006	:	
Attorney Docket No. :7955US01	:	

This is a decision on the petition under 37 CFR 1.137(b)[1], filed February 7, 2011 to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the Final Office Action mailed December 15, 2010 which set a three (3) month shortened statutory period for reply. No extensions of time under 37 CFR 1.136(a) were obtained. The instant petition and this decision precede the mailing of the Notice of Abandonment.

Petitioner has submitted a Request for Continued Examination (RCE) and an amendment as the submission required under 37 CFR 1.114.

This matter is being referred to Technology Center 1634 for processing of the RCE.

Telephone inquiries related to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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[1]Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

UNITED STATES 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: 28533
BRINKS, HOFER, GILSON & LIONE
P.O. BOX 10395
CHICAGO IL 60610

MAILED
MAY 09 2011
OFFICE OF PETITIONS

In re Application :
Zimmerman, et al. :
Application No. 11/485,945 : PATENT TERM ADJUSTMENT
Filing or 371(c) Date: July 13, 2006 :
Dkt. No.: 3086/1700 (BH 2102) :

This is in response to the application for patent term adjustment pursuant to 37 CFR 1.705(b) filed February 23, 2011.

The request for reconsideration of patent term adjustment is **GRANTED**.

Applicant submits that the correct patent term adjustment to be indicated on the patent is 543 days, not 321 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment mailed December 1, 2010. Applicants assert that the correct period of adjustment pursuant to 37 CFR 1.702(e) is 604 days and not 382 days as reflected in the Notice of Allowance. Applicants assert that the period of adjustment commenced December 10, 2008, the date that the Notice of Appeal was filed, and ended August 5, 2010, the date that the decision by the Board of Patent Appeals and Interferences was mailed in favor of applicants.

The arguments presented have been carefully reviewed and found convincing. In view thereof, as of the time of allowance, the application is entitled to a patent term adjustment of 543 days, as argued.

The $200.00 patent term adjustment application required per 37 CFR 1.18(e) has been charged to the authorized deposit account.

The application file is being forwarded to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).
p
The Adjusted PAIR Calculation can be assessed via public and/or private PAIR.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

OHLANDT GREELEY RUGGIERO &
PERLE LLP
ONE LANDMARK SQUARE 10TH
FLOOR
STAMFORD CT 06901

MAILED
AUG 3 0 2010
OFFICE OF PETITIONS

In re Application of	:	
Gronner, et al.	:	
Application No. 11/486,044	:	ON REQUEST FOR
Filed: July 14, 2006	:	RECONSIDERATION OF
Attorney Docket Number: 0005847USU / 4247	:	PATENT TERM ADJUSTMENT

This is a decision on the petition under 37 CFR 1.705(b), filed July 6, 2010. Applicants believe that they should be accorded an additional PTA of 281 days. 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 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 **five hundred forty-six (546) days** (607 days of PTO delay, reduced by 61 days of Applicant delay).

Receipt of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged.

The application is being forwarded to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to Petitions Attorney Cliff Congo at (571) 272-3207.

Anthony Knight
Director
Office of Petitions

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[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 10/07/11

TO SPE OF : ART UNIT 2629

SUBJECT : Request for Certificate of Correction for Appl. No.: 11486272 Patent No.: 7868905

CofC mailroom date: 09/28/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580
[redacted]

Note: Should the changes in the Related Applications Data and 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.

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.

APPROVED
By aeisen at 1:43 pm, Oct 18, 2011

Comments: _____

/ALEXANDER EISEN/ — **SPE**

2629 — **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : **01/12/11**

TO SPE OF : ART UNIT: **2862 Attn: LABALLE CLAYTON E (SPE)**

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/486455 Patent No.: 7826728

CofC Mailroom date: 01/05/11

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.

- ☑ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

Clayton E. LaBalle — **SPE**

2862 — **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: ——

DATE : 2/16/2011

TO SPE OF : ART UNIT 1725

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/486488 Patent No.: 7705070B2

CofC mailroom date: 2/9/2011

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Virginia Tolbert
Certificates of Correction Branch
571-272-0460

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☑ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: Changes have been approved - No new matter has been introduced and scope / meaning has not been changed

Callie Shosho — **SPE**

1787 — **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 7-25-11

TO SPE OF : ART UNIT 2812

SUBJECT : Request for Certificate of Correction for Appl. No.: 11486691 Patent No.: 7968425

CofC mailroom date: 7-11-11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D40-E
Palm Location 7580

Note: _____ Omega Lewis

703-756-1575

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

SPE

2812
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

DORSEY & WHITNEY LLP - MINNEAPOLIS
ATTENTION: PATENT PROSECUTION DOCKETING DEPARTMENT
INTELLECTUAL PROPERTY PRACTICE GROUP - PT/23RD FL
50 SOUTH SIXTH STREET, SUITE 1500
MINNEAPOLIS MN 55402-1498

MAILED
DEC 14 2011
OFFICE OF PETITIONS

In re Application:	:	
David Alexander Jevans	:	
Application No. 11/486,799	:	NOTICE
Filed: July 14, 2006	:	
Attorney Docket No. PA3792US	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed November 11, 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 application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : January 31, 2011

TO SPE OF : ART UNIT 1637 SPE Gary Benzion

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/486,841 Patent No.: 7,517,651 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 two additional inventors be added to title page of patent?
See COCIN dated 01-20-2011

Antonio Johnson

Certificates of Correction Branch
(571)272-0483

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

X	**Approved**	**All** changes apply.
❑	**Approved in Part**	Specify below which changes **do not** apply.
❑	**Denied**	State the reasons for denial below.

Comments: Add the two additional inventors.

SPE_/Gary Benzion/_____ **Art Unit _1637**_____

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW Jul-11

MIGUEL KAGAN
PO BOX 72008
SAN CLEMENTE CA 92673

MAILED
JUL 27 2011
OFFICE OF PETITIONS

In re Application of	:	
Michael Luis Kagan	:	DECISION ON PETITION
Application Number: 11/486,864	:	
Filing Date: 07/17/2006	:	
For: STUDENT SELECTOR AND	:	
TIMING DEVICE AND METHOD	:	

This is a decision on the petition under 37 CFR 1.137(a), filed on June 10, 2011, to revive the above-identified application.

The petition is **dismissed**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)," or, as described below, under 37 CFR 1.137(b).

The application became abandoned on June 2, 2011, for failure to timely file a proper response to the final Office action mailed on October 22, 2010, which set a three (3) month shortened statutory period for reply. On November 5, 2010, and on December 10, 2010, respectively, amendments to the claims were filed. On June 2, 2011, an Advisory Action Before the Filing of an Appeal Brief ("Advisory Action") was mailed, stating that the reply filed on December 10, 2010, fails to place the application in condition for allowance. Notice of Abandonment was mailed on June 15, 2011.

On June 10, 2011, the subject petition was filed. Petitioner asserts the delay was unavoidable, in essence, because the mailing of the Advisory Action by the Office was delayed such that a timely reply could not be filed.

A grantable petition under 37 CFR 1.137(a) must be accompanied by:

(1) the required reply, unless previously filed; In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant 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(l);

(3) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

The petition lacks items (1) and (3).

With regards to item (1), a reply to the final Office action mailed on October 22, 2010 has not been filed. The only proper reply to a final Office action is: an amendment which places the application in *prima facie* condition for allowance, a Notice of Appeal, a Request for Continued Examination (RCE) and submission under § 1.114, or a continuing application. A proper reply must be filed with any renewed petition.

With regards to item (3), 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".[1] 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

[1] 35 U.S.C. § 133.

> 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.[2]

The showing of record is inadequate to establish unavoidable delay within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a).[5] Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure of mail, telegraph, facsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.[3]

Petitioner is reminded that a proper response to a final rejection (such as the Office action of October 22, 2010), must be in the form of an appeal, an RCE and submission under 37 CFR § 1.114, or a continuation application. The filing of an amendment placing the application in condition for allowance is permitted under the rules, but entry of such an amendment is not a matter of right. It is clear from 37 CFR 1.116 that abandonment of an application is risked when an amendment after a final Office action is filed. The rule clearly indicates that the mere filing of an amendment does not relieve petition of the duty of taking appropriate action to save the application from abandonment.

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[2] 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).

[3] Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

Therefore, whether petitioner received the Advisory Action or not, prior to the expiration of the six month statutory period, the only right petitioner was entitled to was that of appealing the final rejection, filing a continuing application, or requesting continued examination by filing a submission and the required fee. This application became abandoned for failure on the part of petitioner to file an appeal, a continuing application, or an RCE accompanied by a submission under § 1.114.

As noted in MPEP 711.03(c):

> Delay resulting from the lack of knowledge or improper application of the patent statute, rules of practice, or the MPEP, however, does not constitute "unavoidable" delay.[4] For example, as 37 CFR 1.116 and 1.135(b) are manifest that proceedings concerning an amendment after final rejection will not operate to avoid abandonment of the application in the absence of a timely and proper appeal, a delay is not "unavoidable" when the applicant simply permits the maximum extendable statutory period for reply to a final Office action to expire while awaiting a notice of allowance or other action. Finally, 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 by PTO employees; or (b) the PTO's failure to advise the applicant of any deficiency in sufficient time to permit the applicant to take corrective action.[5]

Furthermore, petitioner is advised that failure to timely receive an Advisory Action is not a basis of unavoidable delay. 37 CFR 1.116 and 1.135(b) are manifest that proceedings concerning an amendment after final rejection will not operate to avoid abandonment of the application in the absence of a timely and proper appeal. A delay is not "unavoidable" when an applicant simply permits the maximum extendable statutory period for reply

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[4] See Haines, 673 F. Supp. at 317, 5 USPQ2d at 1132; Vincent v. Mossinghoff, 230 USPQ 621, 624 (D.D.C. 1985); Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (Comm'r Pat. 1891).

[5] See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985); see also In re Colombo, Inc., 33 USPQ2d 1530, 1532 (Comm'r Pat. 1994)(while the Office attempts to notify applicants of deficiencies in their responses in a manner permitting a timely correction, the Office has no obligation to notify parties of deficiencies in their responses in a manner permitting a timely correction).

to a final Office action to expire while awaiting a notice of allowance or other action.[6]

In this case, applicant admittedly received the final Office action mailed on October 22, 2010, but chose not to file a proper reply within the allotted time period. In summary, the period for filing a proper reply, such as a Notice of Appeal, RCE and submission under § 1.114, or a continuing examination, was not tolled by the filing of an amendment after final rejection.

Lastly, petitioner asserts that the examiner initially assured him that any delay in reviewing petitioner's amendment(s) submitted in response to the final rejection "would not be held against me." While it is recognized that this is an unfortunate situation for petitioner, petitioner is nevertheless informed that an applicants' 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.[7]

As the showing of record is insufficient to satisfy the requirements of a grantable petition under 37 CFR 1.137(a), the petition will be dismissed.

ALTERNATIVE VENUE

Petitioner may wish to consider filing a renewed petition under 37 CFR 1.137(b), which now provides that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to

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[6] See MPEP 711.03(c)(III)(C)(2). See In re Colombo, Inc., 33 USPQ2d 1530, 1532 (Comm'r Pat. 1994)(while the Office attempts to notify applicants of deficiencies in their responses in a manner permitting a timely correction, the Office has no obligation to notify parties of deficiencies in their responses in a manner permitting a timely correction).

[7] See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985).

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 required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

The filing of a petition under the unintentional standard cannot be intentionally delayed and therefore should be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

A copy of the form for filing a petition under 37 CFR 1.137(b) to revive an application unintentionally abandoned is enclosed herewith for petitioners' convenience.

The fee for a petition under 37 CFR 1.137(a), as set forth in § § 1.17(l), has been received.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions
By hand: Customer Service Window
Mail Stop Petition

Randolph Building
401 Dulany Street
Alexandria, VA 22314

A reply may also be filed via EFS-Web.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
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
DIW Oct-11

MIGUEL KAGAN
PO BOX 72008
SAN CLEMENTE CA 92673

MAILED
OCT 06 2011
OFFICE OF PETITIONS

In re Application of :
Miguel Luis Kagan :
Application Number: 11/486,864 : ON PETITION
Filing Date: 07/17/2006 :
For: STUDENT SELECTOR AND :
TIMING DEVICE AND METHOD :

This is a decision in response to the petition under 37 CFR 1.137(b) filed on September 27, 2011, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the 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 on June 2, 2011, for failure to timely file a proper response to the final Office action mailed on October 22, 2010, which set a three (3) month shortened statutory period for reply. On November 5, 2010, and on December I0, 2010, respectively, amendments to the claims were filed. On June 2, 2011, an Advisory Action Before the Filing of an Appeal Brief ("Advisory Action") was mailed, stating that the reply filed on December 10, 2010, fails to place the application in condition for allowance. Notice of Abandonment was mailed on June 15, 2011.

On June 10, 2011, a petition under 37 CFR 1.137(a) was filed. On July 27, 2011, the petition was dismissed. On September 27, 2011, the subject petition paper was filed.

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 utility or plant 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 continuing 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 required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

The petition lacks item (1).

Specifically, the RCE fee has not been paid in the amount set forth in 37 CFR 1.17(m). Effective September 26, 2011, the petition fee set forth at § 1.17(m) is $930.00 (small entity fee), and the fee set forth in § 1.17(e) for a request for continued examination is $465.00 (small entity fee).[1] On September 27, 2011, $1,215.00 was received. **A balance of $180.00 is due to complete the required payment.**

The fee deficiency submission must be submitted with a renewed petition.

It is also noted that the submission under 37 CFR 1.114 has not been signed in accordance with 37 CFR 1.4. The reply contains applicant's signature block, but there is no signature in the signature block. A properly-signed submission must accompany any renewed petition.

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[1] The current fee schedule may be found online at: http://www.uspto.gov/web/offices/ac/qs/ope/fee092611.htm

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

A reply may also be filed via the EFS-Web system of the USPTO.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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DIW Nov-11

MIGUEL KAGAN
PO BOX 72008
SAN CLEMENTE CA 92673

MAILED
NOV 08 2011
OFFICE OF PETITIONS

In re Application of	:	
Miguel Luis Kagan	:	
Application Number: 11/486,864	:	ON PETITION
Filing Date: 07/17/2006	:	
For: STUDENT SELECTOR AND	:	
TIMING DEVICE AND METHOD	:	

This is a decision in response to the renewed petition under 37 CFR 1.137(b) filed on October 17, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on June 2, 2011, for failure to timely file a proper response to the final Office action mailed on October 22, 2010, which set a three (3) month shortened statutory period for reply. On November 5, 2010, and on December 10, 2010, respectively, amendments to the claims were filed. On June 2, 2011, an Advisory Action Before the Filing of an Appeal Brief ("Advisory Action") was mailed, stating that the reply filed on December 10, 2010, fails to place the application in condition for allowance. Notice of Abandonment was mailed on June 15, 2011. On June 10, 2011, a petition under 37 CFR 1.137(a) was filed. On July 27, 2011, the petition was dismissed. On September 27, 2011, the initial petition under 37 CFR 1.137(b) was filed. On October 6, 2011, the petition was dismissed.

Receipt of the $180.00 payment to complete the RCE fee is acknowledged.

It is noted that the decision mailed on October 6, 2011 stated that the amendment which accompanied the petition filed on September 27, 2011 was unsigned. No signed amendment has been filed with the subject renewed petition. However, as the RCE transmittal filed on September 27, 2011, states that the submission under 37 CFR 1.114 is, *inter alia*, previously submitted, and the amendment filed on December 10, 2010 was

signed, the December 10, 2010 amendment will be construed as the submission under 37 CFR 1.114 required for filing the RCE.

The application is referred to Technology Center Art Unit 3716 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

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COMMISSIONER FOR PATENTS
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WOLF GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON, MA 02210-2206

MAILED

DEC 03 2010

OFFICE OF PETITIONS

In re Application of
Katsuya Shirai et al
Application No. 11/486,932
Filed: July 14, 2006
Attorney Docket No. S1459.70240US00

DECISION DISMISSING PETITION
UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition under 37 CFR 1.313(c)(2), filed November 24, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED AS MOOT**.

Unfortunately, the petition did not get to the proper deciding official in time to process the petition prior to the patent issue. Therefore, as the case has now issued, the petition to withdraw from issue cannot be granted. However, petitioner's attention is directed to 37 CFR 1.313(d), which states:

> A petition under this section will not be effective to withdraw the application from issue unless it is actually received and granted by the appropriate officials **before the date of issue**.

The request for continued examination (RCE) filed concurrently with the petition is improper in view of the issuance of this application into a patent and will not be processed. Accordingly, the $810 filing fee and the $130 petition fee submitted are unnecessary and will be refunded in due course.

The Information Disclosure Statement has been made of record in the file of the above-identified application without further consideration. *See* 37 CFR 1.97(i).

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

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LEE & HAYES, PLLC
601 W RIVERSIDE
SUITE 1400
SPOKANE, WA 99201

MAILED
MAR 07 2011
OFFICE OF PETITIONS

In re Application of	:	
JUNG, Edward K.Y. et al.	:	
Application No. 11/486,975	:	DECISION ON PETITION
Filed: July 14, 2006	:	TO WITHDRAW
Attorney Docket No. **QQ1 - 0200US**	:	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 26, 2011.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the address has been changed. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

/Tredelle D. Jackson/
Petitions Examiner
Office of Petitions

cc: **MARGARET ANDERSON**
106 E. 6TH STREET, SUITE 900
AUSTIN TX 78701

Doc Code: PET.PTA.RCAL
Document Description: Request for Recalculation in view of Wyeth

PTO/SB/131 (02-10)
Approved for use through 07/31/2010. OMB 0651-0020
U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH**

Attorney Docket Number: 14053.47.1	
Application Number: 11/486,985	Filing Date (or 371(b) or (f) Date): 07/14/2006
Patent Number: 7,716,572	Issue Date: 05/11/2010
First Named Inventor: GERALD T. BEAUREGARD	
Title: CREATING A NEW MUSIC VIDEO BY INTERCUTTING USER-SUPPLIED VISUAL DATA WITH PRE-EXISTING MUSIC VIDEO	

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 F Dolan/	Date 08/20/2010
Name (Print/Typed) John F. Dolan	Registration Number 45382

***Note**: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required in accordance with 37 CFR 1.33 and 11.18. Please see 37 CFR 1.4(d) for the form of the signature. If necessary, submit multiple forms for more than one signature, see below**.*

☑ *Total of 1 forms are submitted.

The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 10 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

Instruction Sheet for: REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH**

(Not to be Submitted to the USPTO)

This form is only for requesting a recalculation of PTA for patents issued before March 2, 2010, if the sole basis for requesting the recalculation is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A).

This form must be filed within 180 days of the day the patent was granted, with the following exception:

> Patentees who received a decision from the USPTO under the USPTO's pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A) may file a request for reconsideration of that decision if such a request for reconsideration is filed within **two months** of the date of the decision (37 CFR 1.181(f)). If the patentee's sole basis for requesting reconsideration of the decision is the USPTO's pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A), the request for reconsideration need only state that reconsideration is being requested in view of Wyeth (this form may be used for this purpose if it is filed within **two months** of the date of the decision from the USPTO).

Do not use this form if the application has been allowed, but not yet issued as a patent.

1. **For patents issued before March 2, 2010:** A request for reconsideration under 37 CFR 1.705(d) and the fee set forth in 37 CFR 1.18(e) are not required, provided that the patentee's sole basis for requesting recalculation of the PTA in the patent is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A) and this form is filed within 180 days of the day the patent was granted.

2. **For patents issued on or after March 2, 2010 (do not use this form):** Patentees seeking a revised PTA in a patent issued on or after March 2, 2010, must file a request for reconsideration under 37 CFR 1.705(d) that complies with the requirements of 37 CFR 1.705(b)(1) and (b)(2) within two months of the day the patent issued.

For more information, see "Notice Concerning Calculation of the Patent Term Adjustment With Respect to the Overlapping Delay Provision of 35 U.S.C. 154(b)(2)(A)" available on the USPTO Web site at http://www.uspto.gov/patents/law/notices/2010.jsp.

**Wyeth v. Kappos*, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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

INTELLECTUAL PROPERTY GROUP
FREDRIKSON & BYRON, P.A.
200 SOUTH SIXTH STREET, SUITE 4000
MINNEAPOLIS, MN 55402

Mail Date: 09/14/2010

Applicant	: Gerald Thomas Beauregard	: DECISION ON REQUEST FOR
Patent Number	: 7716572	: RECALCULATION of PATENT
Issue Date	: 05/11/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/486,985	: OF WYETH
Filed	: 07/14/2006	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A). Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154 (b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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PHOENIX AZ 85004-2202

MAILED
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OFFICE OF PETITIONS

In re Application of	:	
Jason J. Hogg et al.	:	
Application No. 11/486,999	:	DECISION ON PETITION
Filed: July 14, 2006	:	
Attorney Docket No. **12655.6400**	:	

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 December 13, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed September 13, 2010. Accordingly, the date of abandonment of this application is December 14, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1510 and the publication fee of $300, (2) the petition fee of $1620; and (3) a proper statement of unintentional delay. Accordingly, the Issue Fee is accepted as having been unintentionally delayed.

While the revival of applications abandoned for failure to timely prosecute and for failure to timely pay the issue fee are incorporated together in 37 CFR 1.137, the statutory provisions for the revival of an application abandoned for failure to timely prosecute and for failure to timely submit the issue fee are mutually exclusive. See Brenner v. Ebbert, 398 F.2d 762, 157 USPQ 609 (D.C. Cir. 1968). 35 U.S.C. 151 authorizes the acceptance of a delayed payment of the issue fee, if the issue fee "is submitted ... and the delay in payment is shown to have been unavoidable." 35 U.S.C. 41(a)(7) likewise authorizes the acceptance of an "unintentionally delayed payment of the fee for issuing each patent." Thus, 35 U.S.C. 41(a)(7) and 151 each require payment of the issue fee as a condition of reviving an application abandoned or patent lapsed for failure to pay the

issue fee. Therefore, the filing of a Request for Continued Examination (RCE) without payment of the issue fee or any outstanding balance thereof is not an acceptable reply in an application abandoned or patent lapsed for failure to pay the issue fee or any portion thereof. The Notice of Allowance requires the timely payment of the issue fee in effect on the date of its mailing to avoid abandonment of the application. In instances in which there is an increase in the issue fee by the time of payment of the issue fee required in the Notice of Allowance, the Office will mail a notice requiring payment of the balance of the issue fee then in effect. See In re Mills, 12 USPQ2d 1847, 1848 (Comm'r Pat. 1989). The phrase "for failure to pay the issue fee or any portion thereof" applies to those instances in which the applicant fails to pay either the issue fee required in the Notice of Allowance or the balance of the issue fee required in a subsequent notice. In such instances, the reply must be the issue fee then in effect, if no portion of the issue fee was previously submitted or any outstanding balance of the issue fee then in effect, if a portion of the issue fee was previously submitted. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee. Even if an application abandoned for failure to pay the publication fee is being revived solely for purposes of continuity with a continuing application, the petition to revive under 37 CFR 1.137 must include payment of the publication fee.

Accordingly, Issue and Publication fees totaling $1810 have been charged to Deposit Account No. 50-1212, as authorized.

The Power of Attorney does not comply with 37 CFR 3.73(b) since neither the documentary evidence of a chain of title to the assignee nor a statement specifying a complete list of all the reel/frame where such evidence is recorded in included therein. Therefore, the Power of Attorney will not be accepted at this time.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at (571) 272-2783.

This application is being referred to the Technology Center group Art Unit 2887 for consideration of the RCE and the submission required under 37 CFR 1.114, filed concurrently with the instant petition.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
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400 E. VAN BUREN STREET
PHOENIX AZ 85004-2202

MAILED
SEP 01 2011
OFFICE OF PETITIONS

In re Application of :
Hogg, et al. :
Application No. 11/486,999 : DECISION
Filed/Deposited: 14 July, 2006 :
Attorney Docket No. 12655.6400 :

This is a decision on the papers filed on 15 August, 2011, for revival of an application abandoned due to unavoidable delay pursuant to 37 C.F.R. §1.137(a) .

NOTE:

Petitioner, as one registered to practice before the Office, is aware that all practice before the Office is in writing (see: 37 C.F.R. §1.2[1]) 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).

Thus, no telephone discussion may be controlling or considered authority for Petitioner's action(s) and/or inaction(s).

Nevertheless, Petitioner set off in his submission on petition to provide a narration of telephone conversations that were to have taken place between Petitioner and one or more personnel at the Office—complete with Petitioner's inferred (if unsupported) complaint that a call to him by the Office was not returned.

More problematic was that Petitioner either did not review the complete record herein or, having reviewed the record, chose to ignore the facts, which are as follows:

[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.

- Former Counsel failed to reply timely and properly to the Notice of Allowance/Allowability and Fees Due mailed on 13 September, 2010, with reply due under a non-extendable deadline on or before 13 December, 2010;

- The application went abandoned by operation of law after midnight 13 December, 2010;

- It does not appear that the Office mailed the Notice of Abandonment before a petition to revive was filed;

- On 14 December, 2010, former Counsel filed a petition for revival of an application abandoned due to unintentional delay pursuant to 37 C.F.R. §1.137(b)—and in doing so former Counsel filed a reply in the form of:

  —payment of the Issue Fee that was required in the wake of an abandonment for failure to reply timely and properly to the Notice of Allowance/Allowability and Fees Due, and

  —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 information disclosure statement (IDS) for consideration by the Examiner;

- At the time the decision on the petition to revive was drafted (*i.e.*, prior to the 29 March, 2011, mail date of the decision granting the petition) there had been authority for payment of the Issue Fee, and that payment was recorded, however, with the enrollment of new Counsel—who had no authority on former Counsel's deposit account—the previous payment authority was withdrawn;

- Thus, upon the mailing of the new Notice of Allowance/Allowability and Fees Due on 14 April, 2011, with reply due under a non-extendable deadline on or before 14 July, 2011,there was no authority to charge prior Counsel's deposit account, and—rather than simply reply timely and properly with such deposit account authorization for timely and proper payment of the Issue Fee—Petitioner instead elected to undertake the multiple phone calls and other activities that he sought to report and submit as an averred basis for unavoidable delay;

- Because Petitioner failed to reply timely and properly—i.e., pay the fees due—the application went abandoned by operation of law after midnight 14 July, 2011.

It does not appear that Petitioner can satisfy the showing requirements envisioned in *Pratt*.[2]

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[2] Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887))

It appears that Petitioner's only alternative is to file a petition averring unintentional delay pursuant to the regulations at 37 C.F.R. §1.137(b)—and satisfy the requirements thereof.

The petition pursuant to 37 C.F.R. §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. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.137(a)."

This is **not** a final agency action within the meaning of 5 U.S.C. §704.

As to Allegation of
Unavoidable Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(a) are the petition and fee therefor, a reply, a proper showing of unavoidable delay under the regulation, and, where applicable, a terminal disclaimer and fee.

Petitioner does not appear to have satisfied—and appears unable to satisfy—the showing requirements (as to unavoidable delay) under the Rule.

Petitioners' attentions always are directed to the guidance in the Commentary at MPEP §711.03(c) as to the showing regarding unavoidable delay and a petition pursuant to 37 C.F.R. §1.137(a).

BACKGROUND

As discussed above, a review of the record reveals that:

When former Counsel failed to reply timely and properly to the Notice of Allowance/Allowability and Fees Due mailed on 13 September, 2010, with reply due under a non-extendable deadline on or before 13 December, 2010, the application went abandoned by operation of law after midnight 13 December, 2010. And it does not appear that the Office mailed the Notice of Abandonment before former Counsel filed a petition to revive.

On 14 December, 2010, former Counsel filed a petition for revival of an application abandoned due to unintentional delay pursuant to 37 C.F.R. §1.137(b)—in so doing, former Counsel filed a reply in the form of:

> —payment of the Issue Fee, which was required in the wake of an abandonment for failure to reply timely and properly to the Notice of Allowance/Allowability and Fees Due, and
>
> —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 information disclosure statement (IDS) for consideration by the Examiner;

At the time the decision on the petition to revive was drafted (*i.e.*, prior to the 29 March, 2011, mail date of the decision granting the petition) there had been authority for payment of the Issue Fee, and that payment was recorded, however, with the enrollment of new Counsel—who had no authority on former Counsel's deposit account—the previous payment authority was withdrawn;

Thus, upon the mailing of the new Notice of Allowance/Allowability and Fees Due on 14 April, 2011, with reply due under a non-extendable deadline on or before 14 July, 2011,there was no authority to charge prior Counsel's deposit account, and—rather than timely and properly reply with such deposit account authorization for timely and proper payment of the Issue Fee—Petitioner instead elected to undertake the multiple phone calls and other activities that he sought to report and submit as an averred basis for unavoidable delay;

Because Petitioner failed to timely and properly reply—*i.e.*, to pay the fees due—the application went abandoned after midnight 14 July, 2011.

The Office mailed the Notice of Abandonment on 1 August, 2011.

On 16 August, 2011, Petitioner filed, *inter alia*, a petition (with fee) pursuant to 37 C.F.R. §1.137(a), and a reply in the form of fees due. Petitioner made averments of phone calls and phone conversations and incorrect instructions from one or another person at the Office. Again, in so doing Petitioner ignored the express provisions of the Rules of Practice—to wit: the regulations at 37 C.F.R. §1.2.[3] Petitioner's complaint stated expressly rather than in inference was that that prior Counsel and/or the Office did not do for Petitioner what it was Petitioner's responsibility to do. Thus, as noted above, it appears that

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[3] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All
business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

- Petitioner made no showing of unavoidable delay;[4]
- Petitioner is incapable of making a showing of unavoidable delay.

Therefore, Petitioner will wish to submit a petition with fee and all other requirements pursuant to 37 C.F.R. §1.137(b) requesting revival of an application abandoned due to unintentional delay pursuant to 37 C.F.R. §1.137(b).

Petitioners' attentions always are directed to the guidance in the Commentary at MPEP §711.03(c) as to the showing regarding unavoidable delay and a petition pursuant to 37 C.F.R. §1.137(a).

It is noted that the guidance in the Commentary at MPEP §711.03(c)(II) for the showing required pursuant to 37 C.F.R. §1.137(a) provides in pertinent part:

***

...Unavoidable Delay

As discussed above, "unavoidable" delay is the epitome of "unintentional" delay. Thus, an intentional delay precludes revival under 37 C.F.R..§137(a) ("unavoidable" delay) or 37 C.F.R. §1.137(b) ("unintentional" delay). See Maldague, *10 USPQ2d at 1478.*

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-*

[4] Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887))

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).*

A delay resulting from an error (e.g., a docketing error) on the part of an employee in the performance of a clerical function may provide the basis for a showing of "unavoidable" delay, provided it is shown that:

> *(A)the error was the cause of the delay at issue;*
>
> *(B)there was in place a business routine for performing the clerical function that could reasonably be relied upon to avoid errors in its performance; and*
> *(C)the employee was sufficiently trained and experienced with regard to the function and routine for its performance that reliance upon such employee represented the exercise of due care.*

See In re Egbers, *6 USPQ2d 1869, 1872 (Comm'r Pat. 1988),* rev'd on other grounds sub nom., Theodor Groz & Sohne & Ernst Bechert Nadelfabrik KG v. Quigg, *10 USPQ2d 1787 (D.D.C. 1988);* In re Katrapat, *6 USPQ2d 1863, 1867-68 (Comm'r Pat. 1988). For example, where an application becomes abandoned as a consequence of a change of correspondence address (the Office action being mailed to the old, uncorrected address and failing to reach the applicant in sufficient time to permit a timely reply) an adequate showing of "unavoidable" delay will require a showing that due care was taken to adhere to the requirement for prompt notification in each concerned application of the change of address (see MPEP § 601.03), and must include an adequate showing that a timely notification of the change of address was filed in the application concerned, and in a manner reasonably calculated to call attention to the fact that it was a notification of a change of address. The following do not constitute proper notification of a change in correspondence address:*

> *(A)the mere inclusion, in a paper filed in an application for another purpose, of an address differing from the previously provided correspondence address, without mention of the fact that an address change was being made;*
>
> *(B)the notification on a paper listing plural applications as being affected (except as provided for under the Customer Number practice - see MPEP § 403); or*
>
> *(C)the lack of notification, or belated notification, to the U.S. Patent and Trademark Office of the change in correspondence address.*

Delay resulting from the lack of knowledge or improper application of the patent statute, rules of practice or the MPEP, however, does not constitute "unavoidable" delay. See Haines, *673 F. Supp. at 317, 5 USPQ2d at 1132;* Vincent v. Mossinghoff, *230 USPQ 621, 624 (D.D.C. 1985);* Smith v. Diamond, *209 USPQ 1091 (D.D.C. 1981);* Potter v. Dann, *201 USPQ 574 (D.D.C. 1978);* Ex parte Murray, *1891 Dec. Comm'r Pat. 130, 131 (1891). For example, as 37 C.F.R. 1.116 and 1.135(b) are manifest* that proceedings concerning an amendment after final rejection will not operate to avoid abandonment of the application in the absence of a timely and proper appeal, a delay is not "unavoidable" when the applicant simply permits the maximum extendable statutory period for reply to a final Office action to expire while awaiting a notice of allowance or other action.

Likewise, as a "reasonably prudent person" would file papers or fees in compliance with 37 C.F.R. §1.8 or §1.10 to ensure their timely filing in the USPTO, as well as preserve adequate evidence of such filing, a delay caused by an applicant's failure to file papers or fees in compliance with 37 C.F.R. §1.8 and §1.10 does not constitute "unavoidable" delay. See *Krahn*, 15 USPQ2d at 1825. Finally, 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).

35 U.S.C. §133 and §151 each require a showing that the "delay" was "unavoidable," which requires not only a showing that the delay which resulted in the abandonment of the application was unavoidable, but also a showing of unavoidable delay until the filing of a petition to revive. See *In re Application of Takao*, 17 USPQ2d 1155 (Comm'r Pat. 1990).

The burden of continuing the process of presenting a grantable petition in a timely manner likewise remains with the applicant until the applicant is informed that the petition is granted. *Id.* at 1158. Thus, an applicant seeking to revive an "unavoidably" abandoned application must cause a petition under 37 C.F.R. §1.137(a) to be filed without delay (i.e., promptly upon becoming notified, or otherwise becoming aware, of the abandonment of the application).

An applicant who fails to file a petition under 37 C.F.R. §1.137(a) "promptly" upon becoming notified, or otherwise becoming aware, of the abandonment of the application will not be able to show 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(a) was unavoidable. The removal of the language in 37 C.F.R. §1.137(a) requiring that any petition thereunder be "promptly filed after the applicant is notified of, or otherwise becomes aware of, the abandonment" should **not** be viewed as: (A) permitting an

> applicant, upon becoming notified, or otherwise becoming aware, of the abandonment of the application, to delay the filing of a petition under 37 C.F.R. §1.137(a); or (B) changing (or modifying) the result in *In re Application of S*, 8 USPQ2d 1630 (Comm'r Pat. 1988), in which a petition under 37 C.F.R. §1.137(a) was denied due to the applicant's deliberate deferral in filing a petition under 37 C.F.R. § 1.137. An applicant who deliberately chooses to delay the filing of a petition under 37 C.F.R. §1.137 (as in *Application of S*, 8 USPQ2d at 1632) will not be able to show 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(a)] was unavoidable" or even make an appropriate 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."
>
> The dismissal or denial of a petition under 37 C.F.R. §1.137(a) does not preclude an applicant from obtaining relief pursuant to 37 C.F.R. 1. §137(b) on the basis of unintentional delay (unless the decision dismissing or denying the petition under 37 C.F.R. 1.137(a) indicates otherwise). In such an instance, a petition under 37 C.F.R. 1.137(b) may be filed accompanied by the fee set forth in 37 C.F.R. §1.17(m), the required reply, 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 any terminal disclaimer required by 37 C.F.R. §1.137(c). Form PTO/SB/61 or PTO/SB/61PCT may be used to file a petition for revival of an unavoidably abandoned application.
>
> ***

Petitioner has failed to satisfy the requirements under the Rule, as discussed above.

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.[5]

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[5] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on Petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

STATUTES, REGULATIONS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).

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.[6]

Again, Petitioner's attentions are directed to the guidance in the Commentary at MPEP §711.03(c).

As to Allegations of Unavoidable Delay

The requirements under 37 C.F.R. §1.137(a) are the petition and fee therefor, a reply, a proper showing of unavoidable delay under the regulation, and, where applicable, a terminal disclaimer and fee.

As of this writing it appears that Petitioner has failed to satisfy the requirements under the Rule.

CONCLUSION

Accordingly, the petition under 37 C.F.R. §1.137(a) is **dismissed**.

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[6] 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).

ALTERNATIVE VENUE

Should Petitioner wish to revive the application, Petitioner may wish to properly file a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay under 37 C.F.R. §1.137(b). (See: http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c and http://www.uspto.gov/web/forms/sb0064.pdf)

A petition to revive on the grounds of unintentional delay must be filed promptly and such petition must be accompanied by the proper reply, the petition fee, 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 a terminal disclaimer and fee where appropriate. (The statement is in the form available online.)

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By facsimile: **(571) 273-8300**
Attn: Office of Petitions

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[7]) 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

[7] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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OFFICE OF PETITIONS

In re Application of :
Hogg, et al. :
Application No. 11/486,999 : DECISION
Filed/Deposited: 14 July, 2006 :
Attorney Docket No. 12655.6400 :

This is a decision on the papers filed on 6 September, 2011, for revival pursuant to 37 C.F.R. §1.137(b) of an application abandoned due to unintentional delay.

The petition pursuant to 37 C.F.R. §1.137(b) is **GRANTED**.

As to the Allegations
of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee.

BACKGROUND

As discussed above, a review of the record reveals that:

When former Counsel failed to reply timely and properly to the Notice of Allowance/Allowability and Fees Due mailed on 13 September, 2010, with reply due under a non-extendable deadline on or before 13 December, 2010, the application went abandoned by operation of law after midnight 13 December, 2010. It does not appear that the Office mailed the Notice of Abandonment before former Counsel filed a petition to revive.

On 14 December, 2010, former Counsel filed a petition for revival of an application abandoned due to unintentional delay pursuant to 37 C.F.R. §1.137(b)—in so doing, former Counsel filed a reply in the form of:

—payment of the Issue Fee, which was required in the wake of an abandonment for failure to reply timely and properly to the Notice of Allowance/Allowability and Fees Due, and

—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 information disclosure statement (IDS) for consideration by the Examiner;

At the time the decision on the petition to revive was drafted (*i.e.*, prior to the 29 March, 2011, mail date of the decision granting the petition) there had been authority for payment of the Issue Fee, and that payment was recorded, however, with the enrollment of new Counsel—who had no authority on former Counsel's deposit account—the previous payment authority was withdrawn;

Thus, upon the mailing of the new Notice of Allowance/Allowability and Fees Due on 14 April, 2011, with reply due under a non-extendable deadline on or before 14 July, 2011,there was no authority to charge prior Counsel's deposit account, and—rather than timely and properly reply with such deposit account authorization for timely and proper payment of the Issue Fee—Petitioner instead elected to undertake the multiple phone calls and other activities that he sought to report and submit as an averred basis for unavoidable delay;

Because Petitioner failed to timely and properly reply—*i.e.*, to pay the fees due—the application went abandoned after midnight 14 July, 2011.

The Office mailed the Notice of Abandonment on 1 August, 2011.

On 16 August, 2011, Petitioner filed, *inter alia*, a petition (with fee) pursuant to 37 C.F.R. §1.137(a), and a reply in the form of fees due. Petitioner made averments of phone calls and phone conversations and incorrect instructions from one or another person at the Office. Again, in so doing Petitioner ignored the express provisions of the Rules of Practice—to wit: the regulations at 37 C.F.R. §1.2.[1] Petitioner's complaint stated expressly rather than in inference was that that prior Counsel and/or the Office did not do for Petitioner what it was Petitioner's responsibility to do. Thus, Petitioner made no showing of unavoidable delay[2] and the petition was dismissed on 1 September, 2011.

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[1] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All
business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

[2] Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887))

On 6 September, 2011, Petitioner filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.137(b), with fee, with a reply in the form of fees due 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.[3]

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.[4],[5]

Moreover, the Office has set forth in the Commentary at MPEP §711.03(c)(I) the showing and timeliness requirements for a proper showing for relief under 37 C.F.R. §1.181 in these matters.

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other

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[3] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §11.18, formerly §10.18, to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

[4] 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).

[5] 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.))

> 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.[6]

As to Allegations of
Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee.

It appears that the requirements under the rule have been satisfied.

CONCLUSION

Accordingly, the petition pursuant to 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to the Publications Branch to be processed into a patent in due course.

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.

[6] 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[7]) 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

[7] 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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

July 21, 2011

James N. Robinson
1269 Como Boulevard West
Saint Paul MN 55103

In re Application of	:	
James N. Robinson	:	**DECISION ON PETITION**
Application No. 11487013	:	
Filed: 7/17/2006	:	***ACCEPTANCE OF COLOR***
Attorney Docket No. R9.12.1	:	***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) July 17, 2006.

The petition is **GRANTED**.

A grantable petition under 37 C.F.R. 1.84(a) (2) must be accompanied by the following.

1. The fee set forth under 37 C.F.R. 1.17(h),
2. Three (3) sets of the color drawings in question, or (1) set if filed via EFS, and
3. The specification contains appropriate language referring to the color drawings as the first paragraph in that portion of the specification relating to the brief description of the drawings.

The petition was accompanied by all of the required fees and drawings. The specification contains the appropriate language. Therefore, the petition is GRANTED.

Telephone inquires relating to this decision may be directed to the undersigned in the Office of Data Management at 571-272-4200.

/Don Fairchild/
Office of Data Management
Publications Branch

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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.
11/487,013	07/17/2006	James N. Robinson	R9.12.1	5132

7590 07/21/2011

James N. Robinson
1269 Como Boulevard West
Saint Paul, MN 55103

EXAMINER
PAGE, EVAN RANDALL

ART UNIT	PAPER NUMBER
3715	

MAIL DATE	DELIVERY MODE
07/21/2011	PAPER

ACKNOWLEDGEMENT OF REQUEST

Notice of Allowance/Allowability Mailed

The request to print a color drawing reference as the first paragraph in the portion of the specification containing a brief description of the drawings as required by 37 CFR 1.84 and MPEP § 608.02 has been received by the United States Patent and Trademark Office and will be entered into the specification.

571-272-4200 or 1-888-786-0101
Application Assistance Unit
Office of Data Management

FORM PTOM327-5 (Rev. 02/08)

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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ABELMAN, FRAYNE & SCHWAB
666 THIRD AVENUE, 10TH FLOOR
NEW YORK, NY 10017

MAILED
JUN 24 2011
OFFICE OF PETITIONS

In re Application of
Christopher F. Dean
Application No. 11/487,022
Filed: July 13, 2006
Attorney Docket No. 204,394

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 9, 2011, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed October 15, 2010, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on December 16, 2010. *See* MPEP 1215.04.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuing application, (2) the petition fee of $1,620 and (3) a proper statement of unintentional delay.

This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of continuing Application Number 13/156,440.

Petitioner should note, 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 on June 9, 2011, was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account as authorized.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6059.

A. Kelley Collier

Alicia Kelley-Collier
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO CA 92121

MAILED
SEP 01 2010
OFFICE OF PETITIONS

In re Application of :
Larola, et al. :
Application No. 11/487,053 :
Filed: 14 July, 2006 :
Attorney Docket No.: 060720U1 :

DECISION
ON PETITION

This is a decision on the petition under 37 C.F.R. §1.78(a)(3), filed 2 November, 2009, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to a prior-filed application.

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 and 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 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 and 365(c) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 C.F.R. 1.78(a)(3) should not be construed as meaning that the application is entitled to the benefit of the prior-filed application. In order for the application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §§ 120 and 365(c) and 37 C.F.R. 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should

not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed application, accompanies this decision on petition.

This application is being forwarded to the examiner of Technology Center/AU 2617 for consideration of applicant's entitlement to claim benefit of priority under 35 U.S.C. §§120 and 365(c) to the above-noted, prior-filed PCT application.

Any questions concerning this decision on petition may be directed to John J. Gillon, Jr., attorney, at (571) 272-3214. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Chris Bottorff
Supervisory Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/487,053	07/14/2006	2617	4730	060720U1	72	8

CONFIRMATION NO. 5756

CORRECTED FILING RECEIPT

23696
QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO, CA 92121

OC000000043240050

Date Mailed: 08/27/2010

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)

Rajiv Laroia, Far Hills, NJ;
Vladimir Parizhisky, New York, NY;
Junyi Li, Bedminster, NJ;
Sathyadev Venkata Uppala, Whitehouse Station, NJ;

Power of Attorney: The patent practitioners associated with Customer Number 23696

Domestic Priority data as claimed by applicant

This application is a CIP of 10/780,539 02/17/2004
which claims benefit of 60/448,667 02/19/2003

Foreign Applications

If Required, Foreign Filing License Granted: 08/04/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/487,053**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Methods and apparatus related to assignment in a wireless communications system

Preliminary Class

370

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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MIRICK, O'CONNELL, DEMALLIE & LOUGEE, LLP
1700 WEST PARK DRIVE
WESTBOROUGH MA 01581

MAILED
SEP 07 2010
OFFICE OF PETITIONS

In re Application of	:	
Mitchell C. Sanders, et al.	:	
Application No. 11/481,141	:	DECISION ON PETITION
Filed: July 13, 2006	:	
Attorney Docket No. 15535-46040	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 3, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, January 15, 2010, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on April 16, 2010. The Notice of Abandonment was mailed August 5, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $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 $865 extension of time fee submitted with the petition on August 3, 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 Terri Johnson at (571) 272-2991.

This application is being referred to Technology Center AU 1657 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
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FISH & RICHARDSON P.C. (SV)
PO BOX 1022
MINNEAPOLIS, MN 55440-1022

MAILED

JUN 17 2011

OFFICE OF PETITIONS

In re Patent of Wray Russ :
Patent No. 7,870,570 :
Issue Date: January 11, 2011 :
Application No. 11/487,147 :
Filing Date: July 13, 2006 :
Attorney Docket No. 18496-010001 :

DECISION ON PETITION

This is a decision on the "Application for Patent Term Adjustment Under 37 C.F.R. § 1.705(d)" filed March 7, 2011, which is being treated as a petition under 37 C.F.R. § 1.705(d) requesting the patent term adjustment indicated on the patent be corrected to indicate the term of the patent is extended or adjusted by nine hundred twenty-three (923) days.

The petition is **dismissed**.

Pursuant to 35 U.S.C. § 1.154(b)(1)(B)(i), the period of delay under 35 U.S.C. § 154(b)(1)(B) ("B Delay") does not include "any time consumed by continued examination of the application."

The petition argues the "time consumed by continued examination of the application" does not include the period of time beginning on the date the Office issued the Notice of Allowance and ending on the date the Office issued the patent.

"Once a request for continued examination ... 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)."[1] In other words, the time period consumed by continued examination of the application ends on the date a patent is issued, not the day before the date a Notice of Allowance is issued.

The petition asserts the proper period of B Delay is 430 days, not 311 days as calculated by the Office.

The application was filed July 13, 2006. A request for continued examination ("RCE") was filed May 21, 2010. The patent issued January 11, 2011.

[1] Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term, 65 Fed. Reg. 56365, 56376 (September 18, 2000) (response to comment 8)

37 C.F.R. § 1.703(b)(1) 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:
>
> (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.

The number of days beginning July 14, 2009, the day after the date three years after the filing date, and ending on the date the patent issued is 547 days, and the number of days beginning May 21, 2010, the date the RCE was filed, and on the date the patent issued is 236 days. Therefore, the correct period of B Delay is 311 (547 - 236) days as previously calculated by the Office.

In view of the prior discussion, the Office properly calculated the period of B Delay and the patent term adjustment remains 804 days.

Submission of the $200.00 fee set forth in 37 C.F.R. § 1.18(e) is acknowledged.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110407

DATE : April 07, 2011

TO SPE OF : ART UNIT 2887

SUBJECT : Request for Certificate of Correction on Patent No.: 7,909,246

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - ST (South Tower) 9A22
Palm location **7590** - Tel. No. (703) 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriated box.

☒ **Approved** All changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

The Request for Certificate of Correction filed on March 30, 2011 has been reviewed and approved.

/STEVEN S PAIK/
Supervisory Patent Examiner.Art Unit 2887

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO, CA 92121

MAILED
OCT 27 2010
OFFICE OF PETITIONS

In re Application of
Pablo Anigstein, et al.
Application No.: 11/487,225
Filed: July 14, 2006
Attorney Docket No.: 061091

DECISION ON PETITION
UNDER 37 CFR 1.78(a)(3)

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed August 25, 2010, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed with the petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

> **(1)** the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) and (iii) of the prior-filed application(s), unless previously submitted;[1]
> **(2)** the surcharge set forth in § 1.17(t); and
> **(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

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).

(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application(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 applications, accompanies this decision on petition.

This application is being forwarded to Technology Center Art Unit 2618 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.

Inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Enclosure: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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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
11/487,225	07/14/2006	2618	4780	061091	60	10

CONFIRMATION NO. 5201

CORRECTED FILING RECEIPT

23696
QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO, CA 92121

OC000000044181053

Date Mailed: 10/26/2010

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)

Pablo Anigstein, Gillette, NJ;
Prashanth Hande, Jersey City, NJ;
Junyi Li, Bedminster, NJ;

Power of Attorney: The patent practitioners associated with Customer Number 23696

Domestic Priority data as claimed by applicant

This application is a CIP of 10/641,308 08/13/2003 PAT 7,420,939
and is a CIP of 10/640,718 08/13/2003

Foreign Applications

If Required, Foreign Filing License Granted: 08/11/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/487,225**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

User specific downlink power control channel Q-bit

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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MICHAEL RIES
318 PARKER PLACE
OSWEGO IL 60543

MAILED
MAY 24 2011
OFFICE OF PETITIONS

In re Application of	:	
Triantos	:	
Application No. 11/487,249	:	ON PETITION
Filed: July 14, 2006	:	
Attorney Docket No. PT0706	:	

This is in response to petition to revive an unintentionally abandoned application under 37 CFR 1.137(b), filed May 8, 2011.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to timely file a proper response to the final Office action, mailed November 19, 2009, which set a shortened statutory period for reply of three months. Applicant filed an Amendment on February 19, 2010. However, the Examiner mailed an Advisory Action on February 25, 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 February 20, 2010. The Office mailed a Notice of Abandonment on June 25, 2010.

With the instant petition, petitioner paid the petition fee, made the proper statement of unintentional delay, and submitted the required reply in the form of an Request for Continued Examination (RCE).

The application is being forwarded to Group Art Unit 3643 for consideration of the RCE, filed May 8, 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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MAILED
JUL 25 2011
OFFICE OF PETITIONS

QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO, CA 92121

In re Application of Alexander Leonidov, et al. Application No. 11/487,260 Filed: July 14, 2006 Attorney Docket No.: 060725	: : : : :	ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed June 22, 2011.

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue and publication fees on or before May 23, 2011, as required by the Notice of Allowance and Fee(s) Due mailed February 22, 2011. A Notice of Abandonment was mailed on June 9, 2011. On June 22, 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 the $1,510 issue fee and $300 publication fee; (2) the petition fee of $1,620; and (3) an adequate statement of unintentional delay.

The application is being referred to the Office of Data Management to be processed into a patent.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing as a patent should be directed to (571) 272-4200.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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MAILED
NOV 18 2011
OFFICE OF PETITIONS

QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO CA 92121

In re Application of	:	DECISION ON REQUEST
Leonidov et al.	:	FOR RECONSIDERATION OF
Patent Number: 8,005,158	:	PATENT TERM ADJUSTMENT
Issue Date: 08/23/2011	:	and
Application No. 11/487260	:	NOTICE OF INTENT TO ISSUE
Filing or 371(c) Date: 07/14/2006	:	CERTIFICATE OF CORRECTION
Attorney Docket Number:	:	
060725	:	

This is a decision on the petition filed on filed October 20, 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 one hundred one (1101) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand one hundred one (1101) days is **GRANTED**.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by one thousand three hundred fifty-seven (1357) 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 : 8,005,158 B2

DATED : **August 23, 2011**

INVENTOR(S) : Leonidov 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 1095 days.

Delete the phrase "by 1095 days" and insert – by 1101 days--

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: ALC 3259	
Application Number: 11/487,506	Filing Date (or 371(b) or (f) Date): July 17, 2006
Patent Number: 7,663,888 B2	Issue Date: February 16, 2010
First Named Inventor: Simon Paul Creasy	
Title: PRINTED CIRCUIT BOARD THICKNESS ADAPTORS	

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 Terry W. Kramer	Date August 13, 2010
Name (Print/Typed) Terry W. Kramer	Registration Number 41,541

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
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www.uspto.gov

Terry W. Kramer, Esq.
Kramer & Amado, P.C.
1725 Duke Street, Suite 240
Alexandria, VA 22314

Mail Date: 09/07/2010

Applicant	: Simon Paul Creasy	: DECISION ON REQUEST FOR
Patent Number	: 7663888	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/487,506	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/17/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **462** 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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TED M. ANTHONY
SUITE 1600
600 JEFFERSON STREET
LAFAYETTE LA 70501

MAILED
MAR 14 2011
OFFICE OF PETITIONS

In re Application of	:	
Couvillion et al.	:	
Application No. 11/487,565	:	ON PETITION
Filed: July 14, 2006	:	
Title: Method and Apparatus for Preparing Bone Grafts, Including Grafts for Cervical Interbody Fusion	:	

This is a decision on the petition under 37 CFR 1.137(a), filed August 23, 2010, to revive the above-identified application.

The petition is **GRANTED.**

This application became abandoned for failure to timely reply to the final Office action mailed October 28, 2009. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on January 29, 2010. A Notice of Abandonment was mailed June 23, 2010.

The petition satisfies the requirements of 37 CFR 1.137(a) in that petitioner has supplied (1) the required reply in the form of a Request for Continued Examination (RCE) and the requisite Submission under 37 CFR 1.114; (2) the petition fee of $270.00; and (3) a showing to the satisfaction of the Director that the entire delay was unavoidable.

This application is being referred to Technology Center AU 3724 for further examination on the merits.

Telephone inquiries concerning this decision should be directed to Petitions Examiner Liana Walsh at (571) 272-3206.

/dab/
David Bucci
Petitions Examiner
Office of Petitions

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LEE & HAYES, PLLC
601 W RIVERSIDE
SUITE 1400
SPOKANE, WA 99201

MAILED

MAR 16 2011

OFFICE OF PETITIONS

In re Application of	:	
JUNG, et al	:	
Application No. 11/487,595	:	DECISION ON PETITION
Filed: July 14, 2006	:	TO WITHDRAW
Attorney Docket No. QQ1-0156US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 25, 2011.

The request is **NOT APPROVED.**

The request to withdraw from record cannot be approved because the request to change the correspondence address is not accompanied by a power of attorney nor is the correspondence address that of an assignee of the entire interest who has been properly made of record under 37 CFR 3.71 or the first named inventor.

All future communications from the Office will continue to be directed to the above-identified address until otherwise properly notified.

Telephone 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: MARGARET ANDERSON
106 E. 6TH STREET, SUITE 900
AUSTIN TX 78701

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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CHEVRON U.S.A. INC.
LAW - INTELLECTUAL PROPERTY GROUP
P.O. BOX 2100
HOUSTON TX 77252-2100

MAILED

SEP 30 2010

OFFICE OF PETITIONS

In re Application of	:	
Vijay A. DESHPANDE et al.	:	
Application No. 11/487,731	:	DECISION ON PETITION
Filed: July 17, 2006	:	
Attorney Docket No. **X-0075 DIV**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 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, July 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 October 18, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of amendment, (2) the petition fee of $1620, and (3) a proper statement of unintentional delay. Accordingly, the reply to the non-final Office action of July 17, 2009 is accepted as having been unintentionally delayed.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1110 extension of time fee submitted with the petition on March 11, 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 Tredelle Jackson at (571) 272-2783.

This application is being referred to Technology Center AU 1795 for appropriate action on the concurrently filed amendment.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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LeClairRyan
290 Linden Oaks
Suite 310
Rochester NY 14625

MAILED

NOV 08 2011

OFFICE OF PETITIONS

In re Patent No. 7,956,050	:	
Issue Date: June 7, 2011	:	
Application No. 11/487,884	:	DECISION ON PETITION
Filed: July 17, 2006	:	
Attorney Docket No. 29500-0262	:	

This is a decision on the Petition Under 37 C.F.R. §3.81(b) For Change In Assignment Data Printed In A Patent And Request For Certificate Of Correction Under 37 C.F.R. §1.323, filed September 22, 2011, to accept the omission of the second assignee's name. A completed Certificate of Correction Form was submitted with Petition.

The petition under 37 CFR §3.81(b) is **GRANTED**.

Petitioner urges that the present petition was submitted to accept the omission of the second assignee's name on the previously submitted PTOL-85B and such error was applicants. Accordingly, petitioner requests that a Certificate of Correction (PTO/SB/44) be issued to add the omitted second assignee's name to the Title Page of the Letters Patent.

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in §3.11 before issuance of the patent, and must include a request for a certificate of correction under §1.323 of this chapter (accompanied by the fee set forth in §1.20(a) and the processing fee set forth in §1.17(i) of this chapter.

The requisite $100.00 fee (Fee Code 1811), as set forth under 37 CFR 1.20(a), and the requisite $130.00 processing fee (Fee Code 1464), as set forth under 37 CFR 1.17(i), have been submitted. Further, Office assignment records are consistent with the requested correction. Accordingly, since the Petition complies with the provisions of 37 CFR §3.81(b), it is appropriate for the Office to issue a Certificate of Correction in accordance with the content of the Form submitted with the petition.

Inquiries related this communication should be directed to the undersigned at (571)272-3213.

Any questions concerning the issuance of a Certificate of Correction should be directed to the Certificates of Correction Branch at (703)756-1814.

This matter is being referred to the Certificates of Correction Branch for processing of a Certificate of Correction in U.S. Patent No. 7,956,050.

Cheryl Gibson-Baylor

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

VENABLE LLP
P.O. BOX 34385
WASHINGTON DC 20043-9998

MAILED

DEC 13 2010

OFFICE OF PETITIONS

In re Application of Nomaguchi et al. Application No. 11/488004 Filing or 371(c) Date: 07/18/2006 Attorney Docket Number: 40616-233586	: : : : : :	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," filed September 16, 2010. Applicants petition for reconsideration of the patent term adjustment calculation to 481 days, not 258 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction based upon (1) an assertion that the Office erred in calculating a delay of 142 days, and (2) on the basis that the Office will take in excess of three years to issue this patent. The petition is properly treated under 37 C.F.R. § 1.705(b).

The Application for Patent term Adjustment ("PTA") under 37 CFR 1.705(b), as it relates to the assertion that the Office erred in calculating a delay of 142 days is **DISMISSED**.

The Application for 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) is **DISMISSED as PREMATURE**.

The application was filed on July 18, 2006. On August 6, 2010, this Office mailed a Notice of Allowance and Issue Fee Due, including a 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 258 days.

On September 16, 2010, applicants timely submitted the instant application for patent term adjustment[1]. Applicants request that the Determination of Patent Term Adjustment be corrected from 258 days, as indicated on the Determination of PTA mailed August 6, 2010, to an adjustment of 481 days. Applicants assert that the Office erred in calculating a reduction of 142 days pursuant to 37 CFR 1.704(c)(8), in connection with the filing of an Information Disclosure Statement ("IDS") on February 26, 2010, after filing a Request for Continued Examination

[1] PALM records show that the Issue Fee payment was received in the Office on October 4, 2010.

("RCE") and Amendment on October 7, 2009, in response to a final Office action mailed July 7, 2009. Applicants argue that in filing the RCE and Amendment on October 7, 2009, all the necessary requirements for a RCE were met on October 7, 2009. Further to this, Applicants aver that the February 26, IDS was not related to the October 7, 2009 RCE.

Applicants also request an adjustment of 81 days on the basis that the Office will take in excess of three years to issue this patent.

As to the assertion that the Office erred in calculating a delay of 142 days in connection with the IDS filed February 26, 2010, Office records reveal that Applicants filed a RCE and Amendment on October 7, 2009, in response to the final Office action mailed July 7, 2009. Thereafter, Applicants filed an Information Disclosure Statement ("IDS") on February 26, 2010. 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. It is undisputed that after filing a response on October 7, 2009, applicants filed an IDS on February 26, 2010. The record does not support a conclusion that the IDS was expressly requested by the examiner. Further, a review of the IDS filed February 26, 2010, reveals that it did not include the proper § 1.704(d) statement[2]. Accordingly, it is concluded that the period of reduction of 142 days is correct and will not be changed.

As to the Office's failure to issue the patent within 3 years of the filing date, knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does

[2] 37 CFR 1.704(d) provides that a paper containing only an information disclosure statement in compliance with 37 CFR 1.97 and 1.98 will not be considered (result in a reduction) under 37 CFR 1.704(c)(6), 1.704(c)(8), 1.704(c)(9), or 1.704(c)(10) if it is accompanied by a statement that each item of information contained in the information disclosure statement was first cited in a communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in 37 CFR 1.56(c) more than thirty days prior to the filing of the information disclosure statement.

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[3].

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

---

[3] 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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Paper No.

STITES & HARBISON PLLC
1199 NORTH FAIRFAX STREET
SUITE 900
ALEXANDRIA VA 22314

MAILED
OCT 27 2011
OFFICE OF PETITIONS

In re Patent No. :
Le Guern et al. :
Issue Date: August 4, 2009:
Application No. 11/488,068 : NOTICE REGARDING DEFICIENCY
Filed: July 18, 2006 :
Atty Docket No. P08979USS00 :
/BAS :

This is a notice regarding your letter received October 13, 2011, notifying the Office of loss of entitlement to small entity status and requesting acceptance of a fee deficiency submission as provided for in 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. 1098 Off. Gaz. Pat. Office 502 (January 3, 1989). Therefore, nothing in this Notice is intended to imply that an investigation was done.

The instant request included an itemization and payment of $2140 for the deficiency in payment of fees.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Payment of the deficiency has been treated under § 1.27(g)(2) as a notification of a loss of entitlement to small entity status.

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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NOV 17 2011
OFFICE OF PETITIONS

STITES & HARBISON PLLC
1199 NORTH FAIRFAX STREET
SUITE 900
ALEXANDRIA, VA 22314

In re Application of :
Marc Verleye, et al. :
Application No. 11/488,187 : NOTICE
Filed: July 18, 2006 :
Attorney Docket No. P08978US00/BAS :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-1642.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

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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THOMAS F. LENIHAN
TEKTRONIX, INC.
14150 S. W. KARL BRAUN DRIVE
P.O. BOX 500 (50-LAW)
BEAVERTON OR 97077-0001

MAILED
MAR 22 2011
OFFICE OF PETITIONS

In re Application of :
Dobyns, et al. :
Application No. 11/488,310 : ON PETITION
Filed: July 17, 2006 :
Attorney Docket No. 7332-US :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 11, 2011, to revive the above-identified application.

The petition is GRANTED.

The application became abandoned October 28, 2010 for failure to timely submit a proper reply to the final Office action mailed July 27, 2010. No petition for extension of time for reply was filed. This decision precedes Notice of Abandonment.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by: (1) the required reply to the outstanding Office action or notice, unless previously filed; (2) the petition fee as set forth in 37 C.F.R. § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee set forth in 37 C.F.R. § 1.20(d)) required pursuant to 37 C.F.R. § 1.137(c).

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE), including fee and submission required by 37 CFR 1.114; (2) the required petition fee; and (3) a proper statement of unintentional delay.

This application is being referred to Technology Center AU 2628 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

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524 SOUTH MAIN STREET
SUITE 200
ANN ARBOR MI 48104

MAILED
SEP 13 2010
OFFICE OF PETITIONS

In re application of	:	
Walter Runkel	:	
Application No. 11/488,352	:	NOTICE
Filed: July 18, 2006	:	
Attorney Docket No. 12663-007	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 on June 28, 2010.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

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BUSINESS OBJECTS AMERICAS; BUSINESS OBJECTS S.A.
SAP AMERICA, INC.; BUSINESS OBJECTS SOFTWARE LTD.
BUSINESS OBJECTS DATA INTEGRATION, INC.
777 6TH STREET NW, SUITE 1100, ATTN: B. GALLIANI
WASHINGTON, DC 20001

MAILED
APR 08 2011
OFFICE OF PETITIONS

In re Application of	:	
Nicholas Guy Kellet et al	:	
Application No. 11/488,441	:	DECISION ON PETITION
Filed: July 17, 2006	:	TO WITHDRAW
Attorney Docket No. BOBJ-026/02US 304661-2212	:	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 8, 2011.

The request is **APPROVED**.

The request was signed by William S. Galliani on behalf of all the practitioners of record and the practitioners associated with Customer Number 23419.

Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to assignee Business Objects Software LTD at the above address.

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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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/488,441	07/17/2006	Nicholas Guy Kellet	BOBJ-026/02US 304661-2212

CONFIRMATION NO. 7663

POWER OF ATTORNEY NOTICE

83282
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

OC000000047024477

Date Mailed: 04/08/2011

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/08/2011.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/idingle/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/488,441	07/17/2006	Nicholas Guy Kellet	BOBJ-026/02US 304661-2212

CONFIRMATION NO. 7663

POA ACCEPTANCE LETTER

83282
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

OC000000047024491

Date Mailed: 04/08/2011

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/08/2011.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

/idingle/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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Paper No.

Lina K. Russell
Suite 1800
2700 Post Oak
Houston TX 77056

MAILED

JAN 03 2011

OFFICE OF PETITIONS

In re Application of :
Higgins et al. :
Application No. 11/488,449 :
Filed: July 17, 2006 :
Attorney Docket No. 7232 :
(25185-P019US) :
Title: METHODS OF IMPLEMENTING :
A WATER-COOLING SYSTEM INTO A :
BURNER PANEL AND RELATED :
APPARATUSES :

DECISION ON PETITION
UNDER 37 C.F.R. § 1.137(B)

This is a decision on the petition filed November 17, 2010, pursuant to 37 C.F.R. § 1.137(b), to revive the above-identified application.

The petition pursuant to 37 C.F.R. § 1.137(b) is **GRANTED.**

The above-identified application became abandoned for failure to submit the issue and publication fees in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed July 23, 2010, which set a shortened statutory period for reply of three months. No extensions of time are permitted for transmitting issue fees[1] or publication fees.[2] Accordingly, the above-identified application became abandoned on October 24, 2010. A Notice of Abandonment was mailed on November 5, 2010.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in 37 C.F.R.

1 See MPEP § 710.02(e)(III).
2 See 37 C.F.R. § 1.211(e).

§ 1.17(m);

(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;

(4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

With this petition, Petitioner filed a Request for Continued Examination (RCE) along with the required fee, an Information Disclosure Statement (IDS), the petition fee, and the proper statement of unintentional delay. The IDS has been accepted as the required reply under 37 C.F.R. § 1.137(b)(1).

The issue and publication fees will be charged to Deposit Account No. 01-1375 in due course, as authorized on the RCE transmittal sheet.

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.[3]

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 IDS submitted on November 17, 2010 - can be processed in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the revival has been acknowledged by the Technology Center in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status.**

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[4] All other inquiries

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3 See Rule 1.137(d).

4 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded

concerning examination procedures or status of the application should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

---

that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

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Business Objects Americas; Business Objects S.A.
SAP America, Inc.; Business Objects Software Ltd.
Business Objects Data Integration, Inc.
3580 Carmel Mountain Rd., Suite 300
San Diego, CA 92130

MAILED
APR 11 2011
OFFICE OF PETITIONS

In re Application of	:	
Didier Marc Jean Bolf, et. al.	:	
Application No. 11/488,459	:	DECISION ON PETITION
Filed: July 17, 2006	:	TO WITHDRAW FROM
Attorney Docket No. BOBJ-087/02US 304661-2213	:	RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR §§ 1.36(b) or 10.40 filed March 15, 2011.

The request is **APPROVED**.

The request was signed by William S. Galliani on behalf of himself and all attorneys/agents associated with Customer Number 23419. Therefore, William S. Galliani and all the attorneys/agents associated with Customer Number 23419 have been withdrawn.

There is an Office action mailed on March 31, 2011, that requires a reply from the applicant.

All future communications from the Office will be directed to the address listed above until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Cooley LLP
Attn: Patent Group
Suite 1100
777 - 6th Street, NW
Washington, DC 20001

UNITED STATES PATENT AND TRADEMARK OFFICE

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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	:	
WU, Ju et al.	:	
Application No. 11/488,463	:	DECISION ON PETITION
Filed: July 17, 2006	:	TO WITHDRAW
Attorney Docket No. **BOBJ-087/01US 304661-2211**	:	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 15, 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

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/488,639	07/19/2006	Kazuhiko Hirano	2392.1075	9579

21171 7590 07/22/2011
STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

EXAMINER
VAN, QUANG T

ART UNIT	PAPER NUMBER
3742	

MAIL DATE	DELIVERY MODE
07/22/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

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STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

Application No.: 11488639	:	
Filed: 07/19/2006	:	**DECISION ON PETITION**
Patent Number: 7,923,670	:	
Issue Date: 04/12/11	:	
Attorney Docket No. **2392.1075**	:	

This is a decision on the Petition filed under 37 CFR 1.181 received in the United States Patent and Trademark Office (USPTO) on July 14, 2011. Petitioner seeks relief from filing a Petition for Duplicate Letters Patent in this application due to the non-receipt of a large number of Patent Grants in the April 12, 2011 issue.

The Petition is **GRANTED**.

Petitioner submitted a statement that the Patent Grant was not received at the correspondence address of record; that a search of records did not indicate receipt; and that the docketing system is sufficiently reliable. Petitioner filed a copy of the docketing records showing receipts dates and application history as evidence.

Therefore, the Office of Data Management will provide one additional Original Letters Patent for this application.

Telephone inquiries relating to this matter may be directed to the undersigned in the Office of Data Management at 571-272-4200.

/Kimberly Terrell/
Manager
Office of Data Management
Patent Publication Branch

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO, CA 92121

Mail Date: 08/03/2010

Applicant	: Amer Catovic	: DECISION ON REQUEST FOR
Patent Number	: 7643830	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/488,745	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/17/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **705** 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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MANATT, PHELPS & PHILLIPS LLP
700 12TH STREET NW ST. 1100
WASHINGTON DC 20005

MAILED
JUN 29 2011
OFFICE OF PETITIONS

In re Application of	:	
Ryan et al.	:	
Application No. 11/488,792	:	DECISION ON PETITION
Filed: July 19, 2006	:	
Attorney Docket No. 44600.030	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 26, 2011 revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is not a final agency action within the meaning of 5 U.S.C. § 704.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item (3).

With respect to item (3) the statement required in item (3) has not been properly signed by petitioner. The signature on the petition does not comply with 37 CFR 1.4(d)(2) as evidenced by the S-signature on the concurrently filed PTOL-85B.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITIONS
Commissioner for Patents
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By hand: U.S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is (571) 273-8300.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

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700 12TH STREET NW ST. 1100
WASHINGTION DC 20005

MAILED
JUL 28 2011
OFFICE OF PETITIONS

In re Application of	:	
Ryan et al.	:	
Application No. 11/488,792	:	DECISION ON PETITION
Filed: July 19, 2006	:	
Attorney Docket No. 44600.030	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed July 20, 2011, to revive the above-identified application.

The petition is **GRANTED.**

This application became abandoned for failure to timely pay the issue fee on or before May 23, 2011, as required by the Notice of Allowance and Fee(s) Due mailed February 22, 2011. Accordingly, the date of abandonment of this application is May 24, 2011. A Notice of Abandonment was mailed May 31, 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, (2) the petition fee of $810.00; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

This application is being referred to Publishing Division for processing into a patent.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

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K&A ASSOCIATES
1407 FOOTHILL BLVD.
SUITE 233
LA VERNE CA 91750

MAILED
JUN 20 2011
OFFICE OF PETITIONS

In re Application of	:	
Robert A. WIEDEMAN et al.	:	
Application No. 11/489,009	:	DECISION ON PETITION
Filed: July 19, 2006	:	
Attorney Docket No. YR0-25A	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 20, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, August 13, 2010, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on November 14, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1,620.00, and (3) a proper statement of unintentional delay. Accordingly, the reply to the non-final Office action of August 13, 2010 is accepted as having been unintentionally delayed.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that

such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

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) 272-4231.

This application is being referred to Technology Center AU 2742 for appropriate action by the Examiner in the normal course of business on the reply received

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **JANIK MARCOVICI**
PERMAN & GREEN LLP
99 HAWLEY LANE
STRATFORD CT 06614

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Mark Levy
HINMAN, HOWARD & KATTELL, LLP
80 Exchange Street
P.O. Box 5250
BINGHAMTON NY 13901

MAILED

APR 06 2011

OFFICE OF PETITIONS

In re Application of	:	
Joseph O. Smith	:	
Application No. 11/489,048	:	ON PETITION
Filed: July 19, 2006	:	
Attorney Docket No. **DOC-101**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 4, 2010, to revive the above-identified application.

The 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 July 29, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on October 30, 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 May 20, 2010, 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
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Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

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. 11/489,048	Applicant(s) SMITH, JOSEPH O.	
	Examiner Kim M. Lewis	Art Unit 3772	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 04 November 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☒ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.
   NOTE: *See Continuation Sheet*. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: *11-17*.
   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: _____.

/Kim M. Lewis/
Primary Examiner
Art Unit: 3772

Continuation of 3. NOTE: the introduction of gauze into the specification and claims adds new matter to the application..

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4800 IDS CENTER
80 SOUTH 8TH STREET
MINNEAPOLIS, MN 55402-2100

MAILED

JUN 27 2011

OFFICE OF PETITIONS

In re Application of	:	
Eric E. PALM, et al.	:	
Application No. 11/489,264	:	DECISION GRANTING PETITION
Filed: July 19, 2006	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **3725.04US02**	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed June 21, 2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 16, 2011 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 3775 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/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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Barry S. Wilson
Foley & Lardner LLP
P.O. Box 80278
San Diego, CA 92138-0278

MAILED
AUG 23 2011
OFFICE OF PETITIONS

In re Patent of Caulfield	:	
Patent No. 7,972,794	:	
Issue Date: July 5, 2011	:	DECISION ON REQUEST
Application No. 11/489,265	:	FOR RECONSIDERATION OF
Filing Date: July 18, 2006	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 054769-1801	:	

This is a decision on the petition filed June 30, 2011, which is being treated as a petition under 37 C.F.R. § 1.705(d) requesting the patent term adjustment indicated on the patent be corrected to indicate the term of the patent is extended or adjusted by one thousand two hundred twenty-eight (1,228) days.

The petition is **dismissed**.

Background

Patentee filed a response to an Office communication on February 16, 2010.

Patentee filed a supplemental response on November 15, 2010.

The submission of the supplemental response resulted in the Office entering a 272-day reduction in patent term adjustment under 37 C.F.R. § 1.704(c)(8).

The Office mailed a Determination of Patent Term Adjustment under 35 U.S.C. 154(b) on December 1, 2010, advising Patentee of a patent term adjustment to date of 407 days.

Patentee submitted the issue fee on February 28, 2011.

The Office mailed an Issue Notification on June 15, 2011. The notification indicates the patent will issue with a patent term adjustment of 956 days.

The instant petition was filed June 30, 2011, 15 days after the Office mailed the Issue Notification. The petition states, "The U.S. Patent Office has awarded 956 days of PTA." The

instant petition also states, "Applicants ... respectfully request that the patent be accorded an additional 272 days of PTA."

The patent issued July 5, 2011.

Discussion

The petition is labeled as a request under 37 C.F.R. § 1.705(b). However, the petition objects to the Office's 956-day patent term adjustment determination, which was set forth in the Issue Notification. Therefore, the petition will be treated as a petition under 37 C.F.R. § 1.705(d).

The petition asserts the Office's entry of the 272-day reduction in patent term adjustment under 37 C.F.R. § 1.704(c)(8) was improper and requests the patent term adjustment be increased 272 days, 956 days to 1,228 days.

37 C.F.R. § 1.705(d) states,

> Any request for reconsideration under this section that raises issues that were raised, or could have been raised, in an application for patent term adjustment under paragraph (b) of this section shall be dismissed as untimely as to those issues.

The propriety of the 272-day reduction in patent term adjustment could have been raised in a petition under 37 C.F.R. § 1.705(b). Therefore, any arguments based on the propriety of the 272-day reduction in patent term adjustment are untimely and the petition is dismissed.

Submission of the $200.00 fee set forth in 37 C.F.R. § 1.18(e) is acknowledged. No additional fee is required.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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.
11/489,350	07/19/2006	Michael Scott Lamphere	GE181073	9500

29827 7590 02/01/2011
FRANCIS L. CONTE, ESQ.
6 PURITAN AVENUE
SWAMPSCOTT, MA 01907

EXAMINER
ANGWIN, DAVID PATRICK

ART UNIT	PAPER NUMBER
3729	

MAIL DATE	DELIVERY MODE
02/01/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

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FRANCIS L. CONTE, ESQ.
6 PURITAN AVENUE
SWAMPSCOTT MA 01907

In re Application of:
LAMPHERE, MICHAEL SCOTT et al
Serial No.: 11/489,350
Filed: July 19, 2006
Docket: GE181073
Title: COMPOUND ELECTROMACHING

DECISION ON PETITION TO REVIEW RESTRICTION REQUIREMENT UNDER 37 CFR 1.144

This is a decision on the petition filed January 21, 2011 to review the restriction requirement promulgated on November 3, 2010. The petition is being considered pursuant to 37 CFR 1.181 and CFR 1.144 and no fee is required for the petition.

The petition is **GRANTED**.

In the petition, petitioner requests the examiner to reconsider the restriction requirement and rejoin all non-elected claims for examination. Petitioner contends that the examiner failed to address the substance of the applicant's traversal of the restriction requirement in the Office action of January 14, 2011. In particular, the examiner failed to provide a reasonable example as why the claimed apparatus of Group II claims can be used to perform a material different process. The examiner failed to provide a reasonable example as to how the claimed process of Group I claims can be carried out by other material different apparatus. Petitioner further argues that the election of species requirement was improper because the sole figures 1-5 illustrated only a single disclosed embodiment. In the restriction requirement, the examiner failed to show any serious burden of search.

After consulting with the examiner and in view of only a single embodiment was disclosed as pointed out by petitioner, it was agreed that the election of species requirement should be withdrawn totally. With regard to the restriction requirement between distinct inventions of Groups I and II under MPEP § 806.05(e), since the examiner failed to provide a reasonable example to show why the claimed apparatus of Group II claims can be used to perform a material different process or the claimed process of Group I claims can be carried out by other material different apparatus, the restriction between method claims and apparatus claims is hereby withdrawn. If the examiner should maintain this part of the restriction requirement, the examiner must provide a reasonable example to establish the Inventions of Group I and II are

independent or distinct in accordance with MPEP 806.05(e). The examiner should also point out any serious burden of search as required by MPEP §808.02.

The request to withdraw the restriction requirement of November 3, 2010 is granted. Since the applicant has filed a Rule 111 amendment in response to the non-final Office action mailed January 14, 2011, the examiner is requested to consider and examine the amendment of January 21, 2011 as soon as possible.

The application is being forwarded to the examiner via the Supervisory Patent Examiner of Art Unit 3729 for consideration of the Rule 111 amendment of January 2011 and the previously withdrawn claims. Any inquiry regarding this decision should be directed to Henry Yuen, Special Programs Examiner, at (571) 272-4856.

PETITION GRANTED

Donald T. Hajec, Director
Technology Center 3700

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: HOJI3001D/REF	Patent Number: 7666764
Filing Date (or 371(b) or (f) Date): 2006-07-20	Issue Date: 2010-02-23
First Named Inventor: Jia-Chong Ho	
Title: COMPOUND SEMICONDUCTOR MATERIAL AND METHOD FOR FORMING AN ACTIVE LAYER OF A THIN FILM TRANSISTOR 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 /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.

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BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA, VA 22314-1176

Mail Date: 09/13/2010

Applicant	: Jia-Chong Ho	: DECISION ON REQUEST FOR
Patent Number	: 7666764	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/489,469	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/20/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **696** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/489,483	07/20/2006	Wooshik Kim	1901.1091	9616

21171 7590 07/22/2011
STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

EXAMINER
PATEL, KANJIBHAI B

ART UNIT	PAPER NUMBER
2624	

MAIL DATE	DELIVERY MODE
07/22/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

Application No.: 11489483	:	
Filed: 07/20/2006	:	**DECISION ON PETITION**
Patent Number: 7,925,107	:	
Issue Date: 04/12/11	:	
Attorney Docket No. **1901.1091**	:	

This is a decision on the Petition filed under 37 CFR 1.181 received in the United States Patent and Trademark Office (USPTO) on July 14, 2011. Petitioner seeks relief from filing a Petition for Duplicate Letters Patent in this application due to the non-receipt of a large number of Patent Grants in the April 12, 2011 issue.

The Petition is **GRANTED**.

Petitioner submitted a statement that the Patent Grant was not received at the correspondence address of record; that a search of records did not indicate receipt; and that the docketing system is sufficiently reliable. Petitioner filed a copy of the docketing records showing receipts dates and application history as evidence.

Therefore, the Office of Data Management will provide one additional Original Letters Patent for this application.

Telephone inquiries relating to this matter may be directed to the undersigned in the Office of Data Management at 571-272-4200.

/Kimberly Terrell/
Manager
Office of Data Management
Patent Publication Branch

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MCDERMOTT WILL & EMERY LLP
600 13TH STREET, N.W.
WASHINGTON, DC 20005-3096

Mail Date: 09/14/2010

Applicant	: Yoshinori Ishikawa	: DECISION ON REQUEST FOR
Patent Number	: 7663986	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/489,584	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/20/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **726** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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OPPENHEIMER WOLFF & DONNELLY LLP
45 SOUTH SEVENTH STREET, SUITE 3300
MINNEAPOLIS MN 55402

MAILED

DEC 02 2010

OFFICE OF PETITIONS

In re Application of	:	
ARTOF et al.	:	
Application No. 11/489,663	:	NOTICE
Filed: 07/17/2006	:	
Attorney Docket No. 22561-4901/US/2	:	

This is a Notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed October 26, 2010.

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.

This application is being referred to Technology Center Art Unit 3738.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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MINNEAPOLIS MN 55402

MAILED
APR 15 2011
OFFICE OF PETITIONS

In re Application of	:	
Jason ARTOF et al	:	
Application No. 11/489,663	:	DECISION ON PETITION
Filed: July 17, 2006	:	
Attorney Docket No. 22561-4901/US/2	:	

This is a decision on the renewed petition under 37 CFR 1.182, filed, December 02, 2010, to correct priority claim.

The petition is **Granted**.

Petitioner request to correct priority claim as originally filed, stating that the application should have claim priority to only one application. A newly executed oath/declaration has been provided as requested by the decision mailed June 21, 2010.

Any questions concerning this matter may be directed to Michelle R. Eason at (571) 272-4231.

Thurman K. Page
Petitions Examiner
Office of Petitions

Attachment: Corrected Filing Receipt

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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/489,663	07/17/2006	3738	2125	22561-4901/US/2	12	4

CONFIRMATION NO. 1147

CORRECTED FILING RECEIPT

34205
OPPENHEIMER WOLFF & DONNELLY LLP
45 SOUTH SEVENTH STREET, SUITE 3300
MINNEAPOLIS, MN 55402

OC000000047181785

Date Mailed: 04/15/2011

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Jason Artof, Huntington Beach, CA;
Tuoc Tan Nguyen, Irvine, CA;
Keith E. Myers, Lake Forest, CA;

Power of Attorney: The patent practitioners associated with Customer Number 34205

Domestic Priority data as claimed by applicant

This application is a CIP of 10/680,071 10/06/2003 PAT 7,101,396

Foreign Applications (You may be eligible to benefit from the **Patent Prosecution Highway** program at the USPTO. Please see http://www.uspto.gov for more information.)

If Required, Foreign Filing License Granted: 08/07/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/489,663**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Minimally invasive valve replacement system

Preliminary Class

623

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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BANNER & WITCOFF, LTD.
1100 13th STREET, N.W.
SUITE 1200
WASHINGTON DC 20005-4051

MAILED
MAR 14 2011
OFFICE OF PETITIONS

In re Application of	:	
Elizabeth M. Jaffee	:	
Application No. 11/489,762	:	ON PETITION
Filed: July 19, 2006	:	
Attorney Docket No. **001107.00641**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 19, 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 July 8, 2010, which set a shortened statutory period for reply of three (3) months. A three (3) months extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on January 9, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuing application under 37 CFR 1.53(b); (2) the petition fee of 810; and (3) a proper statement of unintentional delay.

This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of continuing application No. 13/009,571.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at (571) 272-4584.

JoAnne Burke
Petitions Examiner
Office of Petitions

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JOSEPH A. FUCHS
ROCKEY, DEPKE & LYONS, LLC
233 S. WACKER DRIVE
SUITE 5450; SEARS TOWER
CHICAGO IL 60606-6306

MAILED

SEP 23 2011

OFFICE OF PETITIONS

In re Application of :
RAUL J. GAZMURI :
Application No. 11/489,846 : DECISION ON PETITION
Filed: July 20, 2006 :
Attorney Docket No. 11/489,846 :

This is a decision on the petition, filed August 30, 2011, under 37 CFR 1.181(a) to Withdraw Holding of Abandonment.

The petition under 37 CFR 1.181(a) is **GRANTED**.

The application was held abandoned for failure to timely reply to the final Office action mailed January 27, 2011.

The petition states that a reply was timely submitted on March 10, 2011. To support this assertion, the petitioner has submitted a copy of the response, along with a copy of the Certificate of Transmission under 37 CFR 1.8 dated March 10, 2011.

In view of the above, the holding of abandonment is hereby withdrawn and the application restored to pending status.

This application is being referred to Technology Center AU 1647 for appropriate action by the Examiner in the normal course of business on the reply received March 10, 2011 and submitted with the petition on August 30, 2011.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

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TUNG & ASSOCIATES / RANDY W. TUNG, ESQ.
838 W. LONG LAKE ROAD
SUITE 120
BLOOMFIELD HILLS MI 48302

MAILED

OCT 18 2011

OFFICE OF PETITIONS

In re Application of	:	
Bouvier et al.	:	
Application No.: 11/489864	:	DECISION ON
Filing or 371(c) Date: 07/20/2006	:	PETITION
Attorney Docket Number:	:	
05-0953 (82,000-024)	:	

This is a decision in response to the Petition to Withdraw Holding to Abandonment Under 37 CFR 1.181, filed September 15, 2011.

This Petition is hereby **dismissed**.

Any further petition must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under [insert the applicable code section]." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

Background

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of January 4, 2011. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that prima facie places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). Accordingly, the date of abandonment of this application is April 5, 2011.

The present petition

Applicant files the present petition and avers that a Request for Reconsideration was timely filed on April 4, 2011.

Office records

A review of Office records confirm that an Amendment in reply to the Office action was filed on April 4, 2011.

Applicable Law, Rules and MPEP

37 CFR § 1.135, Abandonment for failure to reply within time period, states

> (a) If an applicant of a patent application fails to reply within the time period provided under § 1.134 and § 1.136, the application will become abandoned unless an Office action indicates otherwise.
> (b) Prosecution of an application to save it from abandonment pursuant to paragraph (a) of this section must include such complete and proper reply as the condition of the application may require. The admission of, or refusal to admit, any amendment after final rejection or any amendment not responsive to the last action, or any related proceedings, will not operate to save the application from abandonment.

Analysis and conclusion

In this instance, Office records confirm that an Amendment in reply to the Office action was filed on April 4, 2011. However, the Examiner has reviewed the Amendment and maintains the rejection. As such, Applicant has failed to file a complete and proper reply to the final Office action mailed January 4, 2011, and the holding of abandonment may not be withdrawn.

Alternate venue

Applicant is urged to file a petition stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in was "unavoidable." An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the required 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 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 revive under 37 CFR 1.137(b).

It is also noted that a complete and proper reply to the final Office action is required.

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 attorney Derek Woods at (571) 272-3232. All other inquiries concerning the Amendment filed April 4, 2011; examination procedures or status of the application should be directed to the Technology Center.

/DLW/

Derek L. Woods
Attorney
Office of Petitions

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Boise ID 83706

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FEB 14 2012
OFFICE OF PETITIONS

In re Application of	:	
Bouvier et al.	:	
Application No.: 11/489864	:	DECISION ON
Filing or 371(c) Date: 07/20/2006	:	PETITION
Attorney Docket Number:	:	
05-0953 (82,000-024)	:	

This is a decision on the petition to revive the above-identified application under the unintentional provisions of 37 CFR 1.137(b), filed January 18, 2012.

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 24, 2011. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). Accordingly, the date of abandonment of this application is August 9, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee, and the submission required by 37 CFR 1.114; (2) the petition fee; and (3) a proper statement of unintentional delay[1].

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3232.

[1] 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 3663 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted April 4, 2011 (and re-filed September 15, 2011), in accordance with 37 CFR 1.114.

/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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Haynes and Boone, LLP
IP Section
2323 Victory Avenue
Suite 700
Dallas, TX 75219

MAILED

AUG 30 2010

OFFICE OF PETITIONS

In re Application of
Heng Liu
Application No. 11/489,888
Filed: July 20, 2006
Attorney Docket No. **20079.0002.CNUS00**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR. § 1.36(b), filed July 22, 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 above-identified address has been revoked by the applicants of the patent application on August 4, 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 below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-4584.

/JoAnne Burke/
JoAnne Burke
Petitions Examiner
Office of Petitions

cc: SAN FRANCISCO OFFICE OF
NOVAK, DRUCE & QUIGG LLP
1000 LOUISIANA STREET
FIFTY-THIRD FLOOR
HOUSTON TX 77002

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LOCKE LORD BISSELL & LIDDELL LLP
600 TRAVIS SUITE 2800
HOUSTON, TX 77002-3095

MAILED
SEP 30 2011
OFFICE OF PETITIONS

In re Application of
Kenneth R. Albinson, et al.
Application No. 11/489,919
Filed: July 20, 2006
Attorney Docket No.: 023662-009US

ON PETITION

This is a decision in response to the petition, filed September 6, 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 a failure to reply in a timely manner to a non-final Office action mailed March 3, 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 June 4, 2010. A Notice of Abandonment was subsequently mailed on October 4, 2010. On September 6, 2011, the present petition was filed.

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 an amendment; (2) the petition fee of $810; and (3) an adequate 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.

The application is being referred to Technology Center AU 1796 for appropriate action by the Examiner in the normal course of business on the amendment filed September 6, 2011.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: MR. ALAN B. SPRINGER
61 S. CONCORD FOREST CI
THE WOODLANDS, TX 77381

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.
11/489,962	07/20/2006	Thomas W. Hoglund	10761.1732-00000	2454

81331 7590 01/10/2011
Accenture/Finnegan, Henderson,
Farabow, Garrett & Dunner, LLP
901 New York Avenue
Washington, DC 20001-4413

EXAMINER
MINCEY, JERMAINE A

ART UNIT	PAPER NUMBER
2165	

NOTIFICATION DATE	DELIVERY MODE
01/10/2011	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

betty.finley@finnegan.com
dianna.williams@finnegan.com
catherine.vanhouten@finnegan.com

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ACCENTURE/FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP
901 NEW YORK AVENUE
WASHINGTON DC 20001-4413

: NOTICE OF WITHDRAWAL
: FROM ISSUE
: UNDER 37 CFR 1.313(b)

MAILED
JAN 11 2011
Technology Center 2100

In re Application of
Thomas W. Hoglund
Application No.: 11/489,962
Filed: August 9, 2010
Attorney Docket No.: 10761.1732-00000
For: UNIVERSAL DATA TELATIONSHIP INFERENCE ENGINE

The application is being withdrawn to permit reopening of prosecution, because the application contains at least one claim that is unpatentable. See 37 CFR 1.313(b)(3).

The above-identified application is hereby withdrawn from issue.

The issue fee is refundable upon written request. If, however, the application is again found allowable, the issue fee can be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due upon written request. This request and any balance due must be received on or before the due date noted in the new Notice of Allowance in order to prevent abandonment of the application.

Telephone inquiries should be directed to Neveen Abel-Jalil 571-272-4074.

The above-identified application is being forwarded to the examiner for prompt appropriate action, including notifying applicant of the new status of this application.

Jack Harvey
Director, Technology Center 2100
Computer Architecture, Software
And Electronic Commerce

DETAILED ACTION

This communication is in response to U.S. Application No. 11/489962 filed on 08/09/2010.

Examiner's Amendments

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to Applicants, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee. Proposed for this Examiner's Amendments as listed below was presented to and authorized by in a telephone interview with Mr. Paul Gurzo, with authorization through Philip Hoffman Registration Number 46,340, during September 03, 2010.

Cancel claims 1-10, and 13.

Please amend claims 11, 12, 15, 17 as follows:

1. - 10. (Canceled)

11. (Currently Amended) A computer-implemented method for presenting, to a computer user, reference information related to content being viewed by the computer user, the computer including a processor and memory and the method comprising steps performed by the computer of:

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THOMAS, KAYDEN, HORSTEMEYER
& RISLEY, LLP
600 GALLERIA PARKWAY, S.E.
STE 1500
ATLANTA GA 30339-5994

MAILED
OCT 20 2010
OFFICE OF PETITIONS

In re Application of

Rolland, et al.

Application No. 11/489,987

Filed: July 20, 2006

Attorney Docket No. 292102-1080

DECISION ON PETITION

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181(a), filed February 18, 2009.

The petition is **granted**.

This application was held abandoned October 10, 2006, after no reply was received to the Notice to File Missing Parts of Non-Provisional Application mailed August 9, 2006. The notice set forth a shortened period of reply of two months from its mailing date. No response was received within the allowable period and the application became abandoned on October 10, 2006.

A review of the application file history reveals that the Notice to File Missing Parts of Non-Provisional Application mailed August 9, 2006, was returned to the USPTO on August 18, 2006. The evidence is convincing that petitioner did not receive the Notice to File Missing Parts of Non-Provisional Application mailed August 9, 2006. The petition is granted. The holding of abandonment is, therefore, withdrawn.

The application file is being forwarded to Office of Patent Application Processing for further processing that may include remailing the Notice to File Missing Parts of Non-Provisional Application and resetting of the period for reply.

Questions concerning this decision should be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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AIR PRODUCTS AND CHEMICALS, INC.
PATENT DEPARTMENT
7201 HAMILTON BOULEVARD
ALLENTOWN, PA 18195-1501

MAILED

AUG 19 2010

OFFICE OF PETITIONS

In re Application of :
Sang Kook Lee et al :
Application No. 11/490,003 : ON PETITION
Filed: July 20, 2006 :
Attorney Docket No. 07000 USA

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 29, 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 1797 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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ANDREWS KURTH LLP
INTELLECTUAL PROPERTY DEPARTMENT
1350 I STREET, N.W., SUITE 1100
WASHINGTON, DC 20005

MAILED
DEC 16 2010
OFFICE OF PETITIONS

In re Application of
Yu-Chung Chu
Application No.: 11/490,064
Filed: July 21, 2006
Attorney Docket No.: 26195-167920

ON PETITION

This is a decision in response to the petition, filed October 20, 2010, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed February 23, 2010. A Notice of Abandonment was mailed on October 7, 2010. On October 20, 2010, the present petition was filed.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that petitioner has supplied (1) a proposed reply in the form of an amendment; (2) the petition fee of $810; and (3) an adequate statement of unintentional delay.

The application is being referred to Technology Center AU 2625 for appropriate action by the Examiner in the normal course of business on the response filed October 20, 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.
11/490,240	07/21/2006	Shimon Weiss	58086-232054	2111

26694 7590 09/19/2011
VENABLE LLP
P.O. BOX 34385
WASHINGTON, DC 20043-9998

EXAMINER
LEE, JAE W

ART UNIT	PAPER NUMBER
1656	

MAIL DATE	DELIVERY MODE
09/19/2011	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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September 18, 2011

VENABLE LLP
P.O. BOX 34385
WASHINGTON DC 20043-9998

In re Application of	:	
Shimon Weiss et al.	:	**DECISION ON PETITION**
Application No. 11490240	:	
Filed: 07/21/2006	:	
Attorney Docket No. **58086-232054**	:	

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) July 21, 2006.

The petition is **DISMISSED.**

A grantable petition under 37 C.F.R. 1.84(a) (2) must be accompanied by the following.

1. The fee set forth under 37 C.F.R. 1.17(h),
2. Three (3) sets of the color drawings in question, (One (1) set for EFW filings, and
3. The specification containing the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings

"The patent or application file contains at least one drawing executed in color. Copies of this patent or patent application publication with color drawing(s) will be provided by the Office upon request and payment of the necessary fee."

The petition did not meet the following requirement(s). 1 ☐ 2 ☐ 3 ☑

A renewed petition filed under 37 C.F.R. 1.84 (a) (2) must be filed within TWO (2) MONTHS of this decision. If a renewed petition is not filed within the TWO (2) Months of this decision the drawings will be printed in black and white.

Telephone inquires relating to this decision may be directed to the undersigned in the Office of Data Management at 571-272-4200.

/Laura L. Feldman/
Quality Control Specialist
Office of Data Management
Publications Branch

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NEKTAR THERAPEUTICS
455 Mission Bay Blvd., South,
Suite 100
San Francisco CA 94158

MAILED
DEC 13 2010
OFFICE OF PETITIONS

In re Application of :
Kozlowski et al. :
Application No. 11/490,268 :
Filed: July 19, 2006 :
Attorney Dkt. No. SHE0124.00 :
For: METHOD FOR PREPARING :
POLYMER MALEIMIDES :

ON APPLICATION FOR
PATENT TERM ADJUSTMENT

This is in response to the "PETITION UNDER 37 C.F.R. 1.181, REQUEST FOR RECONSIDERATION OF THE PATENT TERM ADJUSTMENT INDICATED IN THE NOTICE OF ALLOWANCE" filed November 3, 2010. Applicants request that the determination of patent term adjustment be corrected from two hundred seventy-eight (278) days to four hundred seventy-seven (477) days. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

The $200.00 petition fee set forth in 37 CFR 1.18(e) has been assessed. No additional fees are required.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under §

1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months

---

[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

after issuance pursuant to 37 CFR 1.705(d) and **must** include payment of the required fee under 37 CFR 1.18(e).

The 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 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

Cc: Nektar Therapeutics
201 Industrial Road
San Carlos, California 94070

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Decision Date : November 30, 2011

In re Application of :

Jennifer Grenier

Application No : 11490319

Filed : 20-Jul-2006

Attorney Docket No : 023542-0170

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 November 30, 2011

The request is **APPROVED.**

The request was signed by Kassel, Mark (registration no. 38200) on behalf of all attorneys/agents associated with Customer Number 61495 . All attorneys/agents associated with Cusotmer Number 61495 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	ERAGEN BIOSCIENCES, INC.
Name2	
Address 1	918 DEMING WAY
Address 2	
City	BILLINGS
State	MT
Postal Code	53717
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	11490319
Filing Date	20-Jul-2006
First Named Inventor	Jennifer Grenier
Art Unit	1634
Examiner Name	FRANK LU
Attorney Docket Number	023542-0170
Title	Solid support assay systems and methods utilizing non-standard bases

◉ Please withdraw me as attorney or agent for the above identified patent application and the practitioners of record associated with Customer Number: 61495

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	ERAGEN BIOSCIENCES, INC.
Address	918 DEMING WAY
City	BILLINGS
State	MT
Postal Code	53717
Country	US

I am authorized to sign on behalf of myself and all withdrawing practitioners.	
Signature	/Kassel, Mark/
Name	Kassel, Mark
Registration Number	38200

Issue Classification	Application/Control No.	Applicant(s)/Patent under Reexamination	
	11/490,319	GRENIER ET AL.	
	Examiner	Art Unit	
	FRANK LU	1634	

ISSUE CLASSIFICATION

ORIGINAL						CROSS REFERENCE(S)							
CLASS				SUBCLASS	CLASS	SUBCLASS (ONE SUBCLASS PER BLOCK)							
536				24.3	536	23.1	24.33						
INTERNATIONAL CLASSIFICATION					435	6.1	6.11	6.12	91.1	91.2			
C	0	7	H	21/02									
C	0	7	H	21/04									
C	1	2	Q	1/68									
C	1	2	P	19/34									
				/									

(Assistant Examiner) (Date)	/Frank W Lu/ 2/17/2012	Total Claims Allowed: 15
(Legal Instruments Examiner) (Date)	(Primary Examiner) (Date)	O.G. Print Claim(s): 1 / O.G. Print Fig.: None

☐ Claims renumbered in the same order as presented by applicant ☐ CPA ☐ T.D. ☐ R.1.47

Final	Original	Final	Original	Final	Original	Final	Original	Final	Original	Final	Original	Final	Original
1	1		31		61		91		121		151		181
	~~2~~		32		62		92		122		152		182
2	3		33		63		93		123		153		183
	~~4~~		34		64		94		124		154		184
3	5		35		65		95		125		155		185
4	6		36		66		96		126		156		186
	~~7~~		37		67		97		127		157		187
5	8		38		68		98		128		158		188
6	9		39		69		99		129		159		189
7	10		40		70		100		130		160		190
8	11		41		71		101		131		161		191
9	12		42		72		102		132		162		192
	~~13~~		43		73		103		133		163		193
	~~14~~		44		74		104		134		164		194
	~~15~~		45		75		105		135		165		195
	~~16~~		46		76		106		136		166		196
	~~17~~		47		77		107		137		167		197
	~~18~~		48		78		108		138		168		198
	~~19~~		49		79		109		139		169		199
	~~20~~		50		80		110		140		170		200
	~~21~~		51		81		111		141		171		201
10	22		52		82		112		142		172		202
11	23		53		83		113		143		173		203
12	24		54		84		114		144		174		204
13	25		55		85		115		145		175		205
14	26		56		86		116		146		176		206
	~~27~~		57		87		117		147		177		207
15	28		58		88		118		148		178		208
	29		59		89		119		149		179		209
	30		60		90		120		150		180		210

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VOLPE AND KOENIG, P.C.
UNITED PLAZA
30 SOUTH 17TH STREET
PHILADELPHIA PA 19103

MAILED

SEP 02 2010

OFFICE OF PETITIONS

In re Patent No. 7,557,716 :
Issue Date: July 7, 2009 :
Application No. 11/490,378 : DECISION ON PETITION
Filed: July 20, 2006 :
Attorney Docket No. GBR-PT012 :

This is a decision on the Request For Certificate Of Correction, filed on January 19, 2010, and the Supplemental Request For Certificate Of Correction Pursuant To 37 CFR §1.323 With Request Under 37 CFR §3.81(b), filed March 19, 2010, requesting correction on the Title Page of the subject patent to identify the correct spelling of the assignee's name. The Requests are being treated as a Petition Under 37 CFR 3.81(b). A completed Certificate of Correction Form (PTO/SB/44) was previously submitted on December 10, 2009.

The petition under 37 CFR 3.81(b) is **GRANTED**.

Petitioner requests that the present Petition was submitted to correct the spelling of the assignee's name on the previously submitted PTOL 85B and that such error was Applicants' error and ***not*** United States Patent and Trademark Office error. Accordingly, petitioner requests, in effect, that the Title Page of the above-identified patent be corrected, via issuance of Certificate of Correction, to correct the spelling of the assignee's name identified thereon from:

"SINDERA SAIC"

to:

--SIDERCA SAIC --

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 petition states that the error in not providing the correct spelling of the assignee's name on the front of the patent was the United Statement Patent and Trademark Office's error. However, a review of the Issue Fee Transmittal Form (PTOL-85B) clearly shows the name of the assignee to be printed on the patent as only "*Sindera Saic, Buenos Aires, Argentina*" and thus the error was Applicants' error and ***not*** the United States Patent and Trademark Office's error.

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 at Item (73) on the Form PTO/SB/44 previously submitted on December 10, 2009.

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. 7,557,716.

Cheryl Gibson Baylor

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/490,389	07/20/2006	Ronald S. Michalak	PC50511A	2949

28523 7590 08/19/2010
PFIZER INC.
PATENT DEPARTMENT
Bld 114 M/S 9114
EASTERN POINT ROAD
GROTON, CT 06340

EXAMINER
NOLAN, JASON MICHAEL

ART UNIT	PAPER NUMBER
1626	

NOTIFICATION DATE	DELIVERY MODE
08/19/2010	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):

~IPGSGro@pfizer.com

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AUG 1 9 2010

PFIZER INC.
PATENT DEPARTMENT
Bld 114 M/S 9114
EASTERN POINT ROAD
GROTON CT 06340

In re Application of:
Michalak et al.
Serial No.: 11/490,389
Filed: July 20, 2006
Attorney Docket No.: **PC50511A**

: PETITION DECISION

This is in response to the petition under 37 CFR § 1.59(b), filed July 20, 2010, to expunge information from the above identified application. This application is under final rejection.

Petitioner requests that the TD and response filed erroneously in the instant application on July 19, 2010 be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

The reasons set forth in this petition establishes to the satisfaction of the Director that expungement of the information is appropriate. The file entry for this document has been closed and as such the document is no longer publicly available, which is the IFW equivalent to removal of a paper document from a paper file wrapper.

Therefore, petitioner's petition is GRANTED.

Should there be any questions about this decision please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 703-872-9306.

Marianne C. Seidel
Quality Assurance Specialist
Technology Center 1600

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Alexandria, VA 22313-1450
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ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE NC 28280-4000

MAILED

AUG 16 2010

OFFICE OF PETITIONS

In re Application of
Luciana R. Bertolini et al.
Application No. 11/490,474
Filed: July 20, 2006
Attorney Docket No. **051113/313965**

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 CFR § 1.36(b), filed July 20, 2010.

The request is **NOT APPROVED**.

The request still cannot be approved at this time because it lacks the name of the first inventor or the assignee of record that is associated with the address listed in the request. Therefore, the change of correspondence address is considered improper.

As stated in the previous decision mailed July 15, 2010, 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).

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

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United States Patent and Trademark Office
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SNYDER, CLARK, LESCH & CHUNG, LLP
950 HERNDON PARKWAY, SUITE 365
HERNDON VA 20170

MAILED

OCT 07 2011

OFFICE OF PETITIONS

In re Application
Fredrik Stenmark et al.
Application No. 11/490,528
Filed: July 21, 2006
Attorney Docket No. **PS06 0288US 1**

: DECISION ON APPLICATION
: FOR PATENT TERM ADJUSTMENT

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT filed September 7, 2011. Applicant requests that the determination of patent term adjustment be corrected from 858 days to 1296 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 Court of Appeals for the Federal Circuit's decision in *Wyeth v. Kappos*, 2009-1120 (Fed. Cir. 1-7-2010).

To the extent that this application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentees are entitled to for Office failure to issue the patent within 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.

With respect to the over 3 year calculation, 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.

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** to the extent indicated herein.

On July 1, 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 858 days. The instant application for patent term adjustment was timely filed[1] on or before payment of the issue fee.

Applicants dispute the reduction of 35 days attributed to applicant for failing to respond within three months to the Final Office Action mailed February 4, 2011. A review of the record reveals that the initial determination of patent term adjustment of 858 days is incorrect.

A response to a Final Office Action mailed February 4, 2011 was incorrectly listed as having been filed on June 8, 2011 instead of the receipt date of June 6, 2011. Thus, instead of a 35 day total reduction for applicant delay pursuant to 37 C.F.R. §1.704(b), a total 33 days should have been accorded for applicant delay.

Pursuant to 37 CFR 1.704(b), a period of reduction of 33 days should have been entered.

> 37 CFR 1.704(b) provides that:
>
> With respect to the grounds for adjustment set forth in §§ 1.702(a) through (e), and in particular the ground of adjustment set forth in § 1.702(b), an applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of

[1] PALM records indicate that the issue fee was paid on September 8, 2011.

> 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.

In view thereof, the determination of Patent Term Adjustment at the time of the mailing of the notice of allowance should have been 860 days (893 days of Office delay reduced by 33 days of applicant delay), rather than 858 days listed on the notice of allowance.

The Office of Data Management has been advised of this decision. The application is, thereby, forwarded to the Office of Data Management for issuance of the application. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

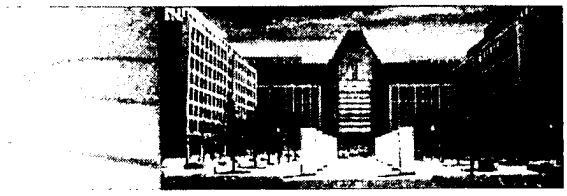
Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of Revised PALM Screen

Patent Term Adjustments



PTA/PTE Information Patent Term Adjustment Patent Term Extension

Application Number*: 11490528 Search Explanation of PTA Calculation Explanation of PTE Calculation

PTA Calculations for Application: 11490528

Application Filing Date 07/21/2006	OverLapping Days Between (A and B) or (A and C) 0
Issue Date of Patent	Non-Overlapping USPTO Delays: 893
A Delays 893	PTO Manual Adjustment 2
B Delays 0	Applicant Delay (APPL) 35
C Delays 0	Total PTA (days) 860

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
68	09/30/2011		P028	Adjustment of PTA Calculation by PTO		33	0
67	09/30/2011		P028	Adjustment of PTA Calculation by PTO	35		0
58	07/01/2011		MN/=.	Mail Notice of Allowance			0
57	06/29/2011		OAR	Office Action Review			0
56	06/29/2011		OAR	Office Action Review			0
54	06/29/2011		N/=.	Notice of Allowance Data Verification Completed			0
53	06/29/2011		DVER	Document Verification			0
55	06/28/2011		IREV	Issue Revision Completed			0
52	06/19/2011		EX.R	Reasons for Allowance			0
51	06/19/2011		CNTA	Allowability Notice			0
50	06/08/2011		FWDX	Date Forwarded to Examiner			0
49	06/08/2011		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE			0
48	06/08/2011	05/04/2011	RCEX	Request for Continued Examination (RCE)		35	37
47	06/08/2011		ABN9	Disposal for a RCE / CPA / R129			0
46	06/06/2011		BRCE	Workflow - Request for RCE - Begin			0
45	04/15/2011		EML_NTR	Email Notification			0
44	04/15/2011		EML_NTR	Email Notification			0
43	04/15/2011		PA..	Change in Power of Attorney (May Include Associate POA)			0
42	04/15/2011		MCTAV	Mail Advisory Action (PTOL - 303)			0
41	04/12/2011		C.AD	Correspondence Address Change			0
40	04/11/2011		CTAV	Advisory Action (PTOL-303)			0
39	03/16/2011		FWDX	Date Forwarded to Examiner			0
38	03/15/2011		A.NE	Amendment after Final Rejection			0
37	02/04/2011		MCTFR	Mail Final Rejection (PTOL - 326)			0
36	01/31/2011		CTFR	Final Rejection			0
35	11/16/2010		FWDX	Date Forwarded to Examiner			0
34	11/04/2010		A...	Response after Non-Final Action			0
33	08/04/2010		MCTNF	Mail Non-Final Rejection			0
32	08/02/2010		CTNF	Non-Final Rejection			0
31	05/05/2010		FWDX	Date Forwarded to Examiner			0
30	04/28/2010		A...	Response after Non-Final Action			0
29	03/02/2010	09/21/2007	MCTNF	Mail Non-Final Rejection	893		0.5
28	03/01/2010		CTNF	Non-Final Rejection			0
22	10/21/2009		DOCK	Case Docketed to Examiner in GAU			0
21	09/02/2009		DOCK	Case Docketed to Examiner in GAU			0
20	07/22/2009		DOCK	Case Docketed to Examiner in GAU			0
25	07/29/2008		IDSC	Information Disclosure Statement considered			0
19	07/29/2008		M844	Information Disclosure Statement (IDS) Filed			0
18	07/29/2008		WIDS	Information Disclosure Statement (IDS) Filed			0
16	02/21/2008		PG-ISSUE	PG-Pub Issue Notification			0
15	10/18/2007		DOCK	Case Docketed to Examiner in GAU			0
24	05/01/2007		IDSC	Information Disclosure Statement considered			0
23	05/01/2007		IDSC	Information Disclosure Statement considered			0
14	05/01/2007		WIDS	Information Disclosure Statement (IDS) Filed			0
13	05/01/2007		WIDS	Information Disclosure Statement (IDS) Filed			0
12	05/01/2007		RCAP	Reference capture on IDS			0
11	05/01/2007		M844	Information Disclosure Statement (IDS) Filed			0
10	10/18/2006		TSSCOMP	IFW TSS Processing by Tech Center Complete			0
9	10/16/2006		OIPE	Application Dispatched from OIPE			0
8	10/16/2006		COMP	Application Is Now Complete			0
7	10/06/2006		FLFEE	Payment of additional filing fee/Preexam			0
6	10/06/2006		OATHDECL	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic			0
5	08/10/2006		INCD	Notice Mailed--Application Incomplete--Filing Date Assigned			0
3	08/01/2006		L194	Cleared by OIPE CSR			0
2	07/26/2006		SCAN	IFW Scan & PACR Auto Security Review			0

1	07/21/2006	IEXX	Initial Exam Team nn	0
0.5	07/21/2006	EFILE	Filing date	0

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300 S. WACKER DRIVE
32ND FLOOR
CHICAGO IL 60606

MAILED
AUG 12 2010
OFFICE OF PETITIONS

In re Application of	:	
Stephen C. Schulz, et al.	:	
Application No. 11/490,556	:	DECISION GRANTING PETITION
Filed: July 20, 2006	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 05-658-D	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed August 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 July 26, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries regarding this decision should be directed to undersigned at (571) 272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 1641 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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ROBERT M. MCDERMOTT, ESQ.
1824 FEDERAL FARM ROAD
MONTROSS VA 22520

MAILED

JUL 08 2011

OFFICE OF PETITIONS

In re Application of
ZNAMOVA et al.
Application No. 11/490,586
Filed: 07/21/2006
Attorney Docket No. OP-050827

DECISION ON PETITION

This is a decision on the petition filed June 17, 2011, which is properly being treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment in the above-identified application.

The petition is **dismissed as moot**.

On January 10, 2011, the Office mailed a Notice of Panel Decision from Pre-Appeal Brief Review stating a Pre-Appeal Brief conference has been held and that the application remains under appeal because there is at least one actual issue for appeal. Applicants were required to submit an appeal brief in accordance with 37 CFR 41.37. The time period for filing an appeal brief was reset to be one month from mailing the decision, or the balance of the two-month time period running from the receipt of the notice of appeal, whichever is greater. Further, the time period for filing of the appeal brief is extendible under 37 CFR 1.136 based upon the mail date of the decision or the receipt date of the notice of appeal, as applicable.

In this instance, the greater period for filing the appeal brief was one month from the mailing of the decision of January 10, 2011. This time period is extendible under 37 CFR 1.136 for a period of five months. Accordingly, applicants could file a timely appeal brief on or before July 10, 2011, accompanied by a request for an extension of time for response within the fifth month (and fee).

The record reveals that applicants submitted an appeal brief on June 17, 2011. Additionally, applicants paid a $1,175.00 five month extension of time fee on July 7, 2011. Thus, the appeal brief is considered timely filed with the extension of time for response within the fifth month. Accordingly, the application is not abandoned and remains in pending status.

The application is being forwarded to Technology Center Art Unit 2617 for appropriate action.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/490,616	07/21/2006	Michael A. Britti	206-007-CIP	2978

45346 7590 03/24/2011
HENSLEY KIM & HOLZER, LLC
1660 LINCOLN STREET, SUITE 3000
DENVER, CO 80264

EXAMINER
PARTHASARATHY, PRAMILA

ART UNIT	PAPER NUMBER
2436	

NOTIFICATION DATE	DELIVERY MODE
03/24/2011	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):

hkhdocket@hkh-law.com
rholzer@hkh-law.com
smarkham@hkh-law.com

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Alexandria, VA 22313-1450
www.uspto.gov

Hensley Kim & Holzer, LLC
1660 Lincolm Street
Suite 3000
Denver CO 80264

In re Application of:
Britti et al.
Appl. No.: 11/490616
Filed: July 21, 2006
For: Applicant Screening

DECISION ON PETITION
UNDER 37 CFR § 1.103(a)

This is a decision on the petition for suspension of prosecution under 37 CFR § 1.103(c) filed on March 15, 2011.

The petition is **GRANTED**.

The March 15, 2111 petition was filed with a proper RCE and petition fee and therefore meets the requirements and is hereby suspended for 3 months for the date of this letter. At the end of this period, applicant is required to notify the examiner and request continuance of prosecution or a further suspension. See MPEP § 709.

Suspension of action under 37 CFR § 1.103(a)-(d) at the applicant's request will cause a reduction in patent term adjustment accumulated (if any) under 37 CFR § 1.703. The reduction is equal to the number of days beginning on the date a request for suspension of action was filed and ending on the date of the termination of the suspension. See 37 CFR § 1.704(c)(1).

Any inquiry concerning this decision should be directed to Tod Swann whose telephone number is (571) 272-3612.

Tod Swann, SPRE/QAS
Technology Center 2400

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/490,654	07/21/2006	James Todd Gerdes	63742A US	5594

25212 7590 02/14/2011
DOW AGROSCIENCES LLC
9330 ZIONSVILLE RD
INDIANAPOLIS, IN 46268

EXAMINER
ROBINSON, KEITH O NEAL

ART UNIT	PAPER NUMBER
1638	

NOTIFICATION DATE	DELIVERY MODE
02/14/2011	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):

fagdock@dow.com

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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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FEB 1 4 2011

DOW AGROSCIENCES LLC
9330 ZIONSVILLE RD
INDIANAPOLIS IN 46268

In re Application of:
James Todd Gerdes
Serial No.: 11/490,654
Filed: July 21, 2006
Attorney Docket No.: **63742A US**

: PETITION DECISION

This is in response to the renewed petition under 37 CFR § 1.59(b), filed January 5, 2011, to expunge information from the above identified application. This application has been allowed.

Petitioner requests that the Declaration Under 37 C.F.R. § 1.132 submitted to the Patent Office on October 26, 2009 be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

The reasons set forth in this petition establishes to the satisfaction of the Director that expungement of the information is appropriate. The file entry for this document has been closed and as such the document is no longer publicly available, which is the IFW equivalent to removal of a paper document from a paper file wrapper.

Therefore, petitioner's petition is GRANTED.

Should there be any questions about this decision please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 571-273-8300.

/MC Seidel/
Marianne C. Seidel, Quality Assurance Specialist
Technology Center 1600

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JUN 16 2011

OFFICE OF PETITIONS

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60610

In re Patent of Hiroaki Takahashi	:	DECISION ON REQUEST
Patent No. 7,920,127	:	FOR RECONSIDERATION OF
Issue Date: April 5, 2011	:	PATENT TERM ADJUSTMENT
Application No. 11/490,657	:	AND NOTICE OF INTENT TO
Filing Date: July 21, 2006	:	ISSUE CERTIFICATE OF
Attorney Docket No. 9281-5333	:	CORRECTION

This is a decision on the petition filed on the request filed June 6, 2011, which is being treated as a petition under 37 C.F.R. § 1.705(d) requesting the patent term adjustment indicated on the patent be corrected to indicate the term of the patent is extended or adjusted by one thousand fifty-eight (1058) days.

The petition to correct the patent term adjustment indicated on the patent to indicate the term of the patent is extended or adjusted by one thousand fifty-eight (1058) days is **GRANTED**.

The patent sets forth a patent term adjustment determination of 938 days. The petition asserts the 938-day calculation was the result of the Office *improperly* entering a 120-day reduction in patent term adjustment under 37 C.F.R. § 1.704(c)(10) based on a duty of candor letter filed April 2, 2010.

Duty of candor letters are one of the types of papers the Office has determined will not result in a reduction in patent term adjustment under 37 C.F.R. § 1.704(c)(10). Therefore, the 120-day reduction in patent term adjustment is unwarranted and the correct patent term adjustment is 1058 (938 + 120) 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 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 patent is extended or adjusted by **one thousand fifty-eight (1058)** days.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO.	:	7,920,127 B2
APPLICATION NO.	:	11/490,657
DATED	:	April 5, 2011
INVENTOR(S)	:	Hiroaki Takahashi

DRAFT

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the Title page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 938 days.

Delete the phrase "by 938 days" and insert -- by 1058 days--

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/490,683	07/21/2006	Robert Martin Benson	63739A	3589

25212 7590 02/07/2011
DOW AGROSCIENCES LLC
9330 ZIONSVILLE RD
INDIANAPOLIS, IN 46268

EXAMINER
ROBINSON, KEITH O NEAL

ART UNIT	PAPER NUMBER
1638	

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):

fagdock@dow.com

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FEB 0 7 2011

DOW AGROSCIENCES LLC
9330 ZIONSVILLE RD
INDIANAPOLIS IN 46268

In re Application of:
Robert Martin Benson
Serial No.: 11/490,683
Filed: July 21, 2006
Attorney Docket No.: **63739A**

: PETITION DECISION

This is in response to the renewed petition under 37 CFR § 1.59(b), filed January 27, 2011, to expunge information from the above identified application. This application has been allowed.

Petitioner requests that the Declaration Under 37 C.F.R. § 1.132 submitted to the Patent Office on October 30, 2009 be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

The reasons set forth in this petition establishes to the satisfaction of the Director that expungement of the information is appropriate. The file entry for this document has been closed and as such the document is no longer publicly available, which is the IFW equivalent to removal of a paper document from a paper file wrapper.

Therefore, petitioner's petition is GRANTED.

Should there be any questions about this decision please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 571-273-8300.

/MC Seidel/
Marianne C. Seidel, Quality Assurance Specialist
Technology Center 1600

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/490,684	07/21/2006	James Todd Gerdes	63741A US	3588

25212 7590 02/14/2011
DOW AGROSCIENCES LLC
9330 ZIONSVILLE RD
INDIANAPOLIS, IN 46268

EXAMINER
ROBINSON, KEITH O NEAL

ART UNIT	PAPER NUMBER
1638	

NOTIFICATION DATE	DELIVERY MODE
02/14/2011	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):

fagdock@dow.com

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FEB 1 4 2011

DOW AGROSCIENCES LLC
9330 ZIONSVILLE RD
INDIANAPOLIS IN 46268

In re Application of:
James Todd Gerdes
Serial No.: 11/490,684
Filed: July 21, 2006
Attorney Docket No.: **63741A US**

: PETITION DECISION

This is in response to the renewed petition under 37 CFR § 1.59(b), filed January 5, 2011, to expunge information from the above identified application. This application has been allowed.

Petitioner requests that the Declaration Under 37 C.F.R. § 1.132 submitted to the Patent Office on October 26, 2009 be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

The reasons set forth in this petition establishes to the satisfaction of the Director that expungement of the information is appropriate. The file entry for this document has been closed and as such the document is no longer publicly available, which is the IFW equivalent to removal of a paper document from a paper file wrapper.

Therefore, petitioner's petition is GRANTED.

Should there be any questions about this decision please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 571-273-8300.

/MC Seidel/
Marianne C. Seidel, Quality Assurance Specialist
Technology Center 1600

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THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP
600 GALLERIA PARKWAY, S.E.
STE 1500
ATLANTA GA 30339-5994

MAILED

FEB 01 2011

OFFICE OF PETITIONS

In re Patent No. 7,738,575	:	
Issued: June 15, 2010	:	
Application No. 11/490,850	:	ON PETITION
Filed: July 21, 2006	:	
Attorney Docket Number: 252326-1060	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed December 1, 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.

It is not apparent whether the person signing the instant petition was ever given a power of attorney or authorization of agent regarding this patent. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts. While, a courtesy copy of this decision is being mailed to the address given on the petition, the Office will mail all future correspondence solely to the address of record.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-7751.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Thaddeus Gabara
62 Burlington Rd.
Murray Hill, NJ 07974

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THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP
600 GALLERIA PARKWAY, S.E.
STE 1500
ATLANTA GA 30339-5994

MAILED
JUL 19 2011
OFFICE OF PETITIONS

In re Patent No. 7,738,575 :
Issued: June 15, 2010 :
Application No. 11/490,850 : ON PETITION
Filed: July 21, 2006 :
Attorney Docket Number: 252326-1060 :

This is a notice regarding your renewed request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed June 3, 2011 and June 17, 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**.

It is noted that the above-identified patent was no longer entitled to small entity status as determined by the decision mailed February 1, 2011 (copy enclosed). Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Further, it is not apparent whether the person signing the instant petition was ever given a power of attorney or authorization of agent regarding this patent. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts. While, a courtesy copy of this decision is being mailed to the address given on the petition, the Office will mail all future correspondence solely to the address of record.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-7751.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Thaddeus Gabara
62 Burlington Rd.
Murray Hill, NJ 07974

Enclosure: February 1, 2011 Petition Decision

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THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP
600 GALLERIA PARKWAY, S.E.
STE 1500
ATLANTA GA 30339-5994

MAILED

FEB 01 2011

OFFICE OF PETITIONS

In re Patent No. 7,738,575	:	
Issued: June 15, 2010	:	
Application No. 11/490,850	:	ON PETITION
Filed: July 21, 2006	:	
Attorney Docket Number: 252326-1060	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed December 1, 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.

It is not apparent whether the person signing the instant petition was ever given a power of attorney or authorization of agent regarding this patent. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts. While, a courtesy copy of this decision is being mailed to the address given on the petition, the Office will mail all future correspondence solely to the address of record.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-7751.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Thaddeus Gabara
62 Burlington Rd.
Murray Hill, NJ 07974

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FULBRIGHT & JAWORSKI L.L.P.
98 SAN JACINTO BOULEVARD
SUITE 1100
AUSTIN TX 78701-4255

MAILED
DEC 09 2011
OFFICE OF PETITIONS

In re Application of	:	
Schaedler et al.	:	
Pat. Num.: 7,992,659	:	
Issue Date: 08/09/2011	:	
Application No. 11/490881	:	DECISION
Filing or 371(c) Date: 07/21/2006	:	ON PETITION
Attorney Docket Number:	:	
MTDP:003US/ 10513774	:	

This is a decision on the "Petition Under 37 CFR 3.81(b) to Correct Assignee in Issued Patent," filed November 16, 2011, to correct the name of the assignee on the front page of the above-identified application by way of a Certificate of Correction. .

The Petition is **granted**.

The petition was accompanied by a certificate of correction as required by 3.81(b), and the fee submitted with the present petition. Further, Office assignment records reflect that MTD PRODUCTS INC., is the assignee of record. As the request complies with the provisions of 37 CFR 3.81(b), it would be appropriate for a certificate of correction to be processed.

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[1].

/DLW/

Derek L. Woods
Attorney
Office of Petitions

[1] 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.

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MAY 13 2011
OFFICE OF PETITIONS

EDWARDS ANGELL PALMER & DODGE LLP
111 HUNTINGTON AVENUE
BOSTON MA 02199

In re Application of	:	
Jeffrey P. Gilbard	:	
Application No. 11/490,917	:	DECISION ON PETITION
Filed: July 21, 2006	:	
Attorney Docket No. 2052 (200696)	:	

This is a decision on the petition to revive under 37 CFR 1.137(a), filed March 22, 2011, which is being treated as a petition to withdraw the holding of abandonment under 37 CFR 1.181.

The petition is **GRANTED**.

The above-identified application was held abandoned for failure to timely file an Appeal Brief. In response to an October 8, 2009 final Office action, applicant filed a Notice of Appeal on April 8, 2010 (made timely by obtaining a three month extension of time), together with a Pre-Appeal Brief Request for Review. Subsequently, the Office mailed a Notice of Panel Decision from Pre-Appeal Brief Review on September 24, 2010. This Notice notified applicant that the appeal was proceeding to the Board of Patent Appeals and Interferences, and set the time period for filing an Appeal Brief to one month from the mailing date of the Notice, or the balance of the two month time period running from the Notice of Appeal, whichever was greater. Extensions of time under 37 CFR 1.136(a) were still available. On February 22, 2011, the Office mailed a Notice of Abandonment.

It is obvious from reviewing the file that the Notice of Abandonment was mailed prematurely. As set forth above, the Notice of Panel Decision from Pre-Appeal Brief Review, mailed on September 24, 2010, set an **extendable** period for reply of one month. As such, applicant had until March 24, 2011, to file an Appeal Brief, provided it was filed with a five month extension of time.

In view thereof, **the holding of abandonment is withdrawn**.

Contemporaneous with the filing of the instant petition, applicant has filed an RCE.

Given the basis for granting this petition, the $270 petition fee has been refunded to Deposit Account No. 04-1105.

The matter is being forwarded to Group Art Unit 1616 for consideration of the RCE, timely filed with a five month extension of time on March 22, 2011.

Telephone inquiries regarding this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

MAILED

SEP 14 2010

OFFICE OF PETITIONS

In re Application of	:	
Blatt et al.	:	DECISION ON APPLICATION
Application No. 11/491,126	:	FOR PATENT TERM ADJUSTMENT
Filed: July 21, 2006	:	
Attorney Docket No. INTMU.011A	:	

This is in response to the "Application for Patent Term Adjustment 37 C.F.R. § 1.705(b)" filed April 12, 2010. Applicants request the initial determination of patent term adjustment be corrected from zero (0) days to thirty-five (35) 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 January 12, 2010, advising Applicants of a patent term adjustment to date of 0 days. In response, Applicants timely filed this application for patent term adjustment with payment of the issue fee on April 12, 2010.

Applicants request the patent term adjustment be corrected to 35 days. Applicants assert:

1. The Office improperly entered a reduction of 7 days as a result of the information disclosure statement ("IDS") filed January 25, 2008; and
2. The Office should have entered an increase of 37 days in patent term adjustment for delay under 35 U.S.C. § 154(b)(1)(B) ("B Delay").

A review of the record indicates the entry of a 7-day reduction for the IDS filed January 25, 2008, was proper.

Per 37 C.F.R. § 1.704(c)(8), circumstances that will result in a reduction in the period of adjustment include:

> Submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the initial reply was filed and ending on the date that the supplemental reply or other such paper was filed.

The Office issued a requirement for restriction on October 18, 2007. Applicants filed an amendment responding to the restriction requirement on January 18, 2008. Applicants subsequently filed an IDS on January 25, 2008.

The instant request states,

> Applicants respectfully submit that the filing of an IDS prior to the issuance of a first office action on the merits does not constitute Applicant delay. 37 C.F.R. § 1.704(c)(8) states that "[s]ubmission of a supplemental reply or other paper ... after a reply has been filed" constitutes Applicant delay. Applicants submit that the phrase "a reply has been filed" refers to a reply to an office action on the merits and does not include a reply to a restriction requirement..... [T]he filing of an IDS after a response to a restriction requirement but prior to a first office action on the merits does not ... in any way delay the work of the Office unless it is filed within one month of an action on the merits and causes the mailing of a supplemental Office action pursuant to § 1.704(c)(6).

Despite Applicants' assertion directly above, a supplemental reply or other paper (e.g. an IDS) filed after a reply to an Office action consisting of a requirement for restriction can delay the Office's issuance of a response to the reply.

37 C.F.R. § 1.704(c)(8) is intended to address supplemental replies or other papers filed after a reply to an Office action that can delay the Office's issuance of a response to a reply. The Manual of Patent Examining Procedures ("MPEP") § 2732 (8th ed., Rev. 8, July 2010) states,

> 37 CFR 1.704(c)(8) establishes submission of a supplemental reply or other paper after a reply has been filed as a circumstance that constitutes a failure of an applicant to engage in reasonable efforts to conclude processing or examination of an application. The submission of a supplemental reply or other paper (e.g., an information disclosure statement (IDS) or petition) after an initial reply was filed requires the Office to restart consideration of the initial reply in view of the supplemental reply or other paper, which will result in a delay in the Office's response to the initial reply.

Since a supplemental reply or other paper (e.g. an IDS) filed after a reply to an Office action consisting of a requirement for restriction can delay the Office's issuance of a response to the reply, the Office will not interpret the term "reply," as used in 37 C.F.R. § 1.704(c)(8), to exclude replies to requirements for restriction.

In view of the prior discussion, the Office acted properly when the Office entered a 7-day reduction in patent term adjustment under 37 C.F.R. § 1.704(c)(8) as a result of the IDS filed January 25, 2008.

Applicants assert an increase of 37 days should be entered for B Delay. However, the request for entry of the 37-day increase in patent term adjustment for B Delay is premature.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years.

See 37 C.F.R. § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the 37 C.F.R. § 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 C.F.R. § 1.702(a)(4) or applicant delay under 37 C.F.R. § 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 C.F.R. § 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.

Rather than file an application for patent term adjustment under 37 C.F.R. § 1.705(b) contesting the 37 C.F.R. § 1.702(b) calculation at the time of the mailing of the notice of allowance, an applicant may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 C.F.R. § 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 C.F.R. § 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 C.F.R. § 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 two (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).

In view of the prior discussion, the patent term adjustment at the time of mailing of the notice of allowance remains 0 days.

Submission of the $200.00 fee set forth in 37 C.F.R. § 1.18(e) is acknowledged. No additional fee is required.

Applicants are reminded any delays by the Office pursuant to 37 C.F.R. §§ 1.702(a)(4) and 1.702(b) and any applicant delays under 37 C.F.R. § 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicants will be notified of the revised patent term adjustment

[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 C.F.R. § 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 C.F.R. § 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 C.F.R. § 1.705(b) and 35 U.S.C. § 154(b)(3)(B). A dispute as to the calculation of the 37 C.F.R. § 1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 C.F.R. § 1.705(d) will be dismissed as untimely filed.

to be indicated on the patent in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

The Office of Data Management has been advised of this decision. This matter is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Steven Brantley at (571) 272-3203.

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

QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO CA 92121

MAILED
NOV 03 2010
OFFICE OF PETITIONS

In re Application of	:	
Christopher C. Riddle et al	:	
Application No. 11/491,210	:	DECISION ON PETITION
Filed:: July 21, 2006	:	
Attorney Docket No. 060271	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 6, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the issue and publication fees; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Allowance mailed January 6, 2010, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This application is being referred to the Office of Data Management to be processed into a patent.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/9/11

TO SPE OF : ART UNIT 3729

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/491,457 Patent No. 7,814,641

CofC mailroom date 2/24/11

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

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.
- X **Approved in Part** — Specify below which changes **do not** apply.
- ❑ **Denied** — State the reasons for denial below.

Comments:

1st and 3rd items are approved:

Regarding the correction of the 2nd item, amend as follow:

Title Page (60) Related U.S. Application Data, line 8, after "abandoned", insert the following:

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

-- , which claims the Domestic Priority to Provisional Application No. 60/395,251, filed on Jul. 12, 2002 --.

(C. BROCK) K 3/14/11

SPOKE WITH ATTORNEY VIA TELEPHONE CONVERSATION, I WAS INFORMED THAT THE CERTICATE OF CORRECTION IS APPROVED, BUT NOT IN IT'S ORIGINAL REQUEST, NEW WRITEUP MAKES IT FULLY APPROVED.

ECW 3/14/11

/Derris H. Banks/ SPE, Art Unit 3729

SPE Art Unit

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Alexandria, VA 22313-1450
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MAILED
MAY 20 2011
OFFICE OF PETITIONS

NELSON MULLINS RILEY & SCARBOROUGH LLP
FLOOR 30, SUITE 3000
ONE POST OFFICE SQUARE
BOSTON MA 02109

In re Patent No. 7,902,339	: DECISION ON PATENT TERM
Issued: March 8, 2011	: ADJUSTMENT and NOTICE OF INTENT
Application No. 11/491,500	: TO ISSUE CERTIFICATE OF
Filed: July 21, 2006	: CORRECTION
Dkt. No.: UMY-089CN3RCE	:

This is a decision on the petition filed on May 9, 2011 requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by 367 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 367 days is **GRANTED**.

The Office acknowledges the submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Corrections Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by 367 days.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Adviser
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,903,339

DATED : March 8, 2011 **DRAFT**

INVENTOR(S) : Rock, 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 259 days

Delete the phrase "by 259 days" and insert – by 367 days--